



# MISSOURI BAD CHECK PROSECUTION HANDBOOK



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## **TABLE OF CONTENTS**

SECTION	ON 1	-	Legal Overview	3
SECTIO	ON 2	-	Handling Bad Checks (Intake)	6
SECTIO	ON 3	-	Notices	11
SECTIO	ON 4	-	Methods of Payment	13
SECTIO	ON 5	-	Associated Fees	15
SECTIO	ON 6	-	Processing Payments	17
SECTIO	ON 7	-	Charging Decisions	19
SECTIO	N 8	-	Types of Charges Filed	22
SECTIO	ON 9	-	Punishment Issues	25
SECTIO	ON 10	-	Document / File Management	28
SECTIO	ON 11	-	Prosecutor Bad Check Fund	30
SECTIO	ON 12	-	Merchant Education	32
SECTIO	ON 13	-	Bad Check Software Programs	34
APPEN	DIX A	-	Statutes	36
APPEN	DIX B	-	Definitions	39
APPEN	Attac Attac Attac Attac Attac Attac Attac Attac Attac Attac Attac Attac Attac	hm hm hm hm hm hm hm hm	Attachments  nent A - Bad Check Complainant Questionnaires  nent B - Stop Payment Procedures / Forms  nent C - Unable to Prosecute Merchant Letter – Third Party Checks  nent D - Forgery Procedures & Correspondence  nent E - 10-Day Letters  nent F - Fraudulent Stop Payment Correspondence  nent G - Second Notice Letter  nent H - Bankruptcy Notice  nent I - Restitution Receipt  nent J - Restitution Letters  nent K - Partial Payment Letter  nent L - Unable to Prosecute Merchant Letters  nent M - Motion to Compel Defendant to Submit to Fingerprinting  nent N - Letter & Motion to Revoke Probation  nent O - Drug Court Eligibility Form  nent P - Mental Health Court Referral Form	41 48 52 54 62 70 75 80 82 84 88 90 97 99 103 105
APPEN	Attac Attac Attac	hn hn hn	Merchant Education Packets  nent Q - Jackson County Merchant Packet  nent R - Jefferson County Merchant Packet  nent S - St Charles County Merchant Packet  nent T - St Louis County Merchant Packet	107 115 127 141

# **LEGAL OVERVIEW**

## SECTION 1 - LEGAL OVERVIEW

Under Section 570.120 of the Revised Statutes of Missouri, (RSMo) there are two ways in which a person can be charged with passing a bad check. The first way, under Section 570.120.1(1), requires proof that an individual:

- 1) Makes, issues, or passes a check for the payment of money,
- 2) Knows that the check will not be paid by the drawee, and
- 3) Performs 1 and 2 above with the purpose to defraud.

Under Section 570.120.1(2), the second manner requires proof that the individual:

- 1) Makes, issues, or passes a check for the payment of money,
- 2) Knows that there are insufficient funds in the account or that the account is closed, and
- 3) Fails to pay the check within ten days of receiving actual notice in writing that the check was not honored.

As a practical matter, most bad check prosecutions are best pursued through the second scenario. This is because the first scenario requires proof that the individual possessed the "purpose to defraud" when passing the check. Proving criminal intent can often be difficult, as it generally can only be established by circumstantial evidence (absent a confession from the suspect). The second scenario provides a method of meeting the requirement of proof of "purpose to defraud" by showing that the suspect failed to pay the check within ten days after receiving notice that the check had been dishonored. Such a showing raises a presumption in court that the defendant possessed the "purpose to defraud". This element is much simpler to prove, as it can be established through correspondence sent from your office.

### **ELEMENTS OF PASSING A BAD CHECK**

## **Element 1. Issuing or passing a check**

An individual issues or passes a check when they transfer control of that check to another party, typically the victim. The victim who physically received the check from the suspect usually provides proof of this element.

## Element 2. Knowledge that there are insufficient funds in the account or that the account is closed

At the time an individual passes a check, that person must be aware that there are either insufficient funds in the account, or that the account is closed. The first step in establishing this element is proof that the check was in fact dishonored due to insufficient funds or a closed account. The second step in establishing the knowledge element is discussed below.

## Element 3. Failure to pay the check within ten days after receiving notice that the check was dishonored

Proof of this element is commonly achieved when the prosecutor's office sends its "ten day letter". This letter advises a suspect that 1) the suspect's check has been dishonored, and 2) failure to pay the check within ten days of receipt of the letter may result in the filing of criminal charges. The suspect must actually receive the notice, and if the suspect fails to pay the check in full within ten days after receiving the written notice, the third element has been established. (**Note**: The suspect is considered to have received notice if the suspect refuses to accept the "ten day letter" from the office). Meeting this element not only satisfies the technical requirements of the law, but it also provides evidence of the suspect's knowledge that there were insufficient funds in the account as discussed in element 2. If the suspect fails to pay a dishonored check within ten days after notice, an evidentiary presumption is raised that the suspect was aware at the time the check was passed that there were insufficient funds in the account to cover the check. Once that presumption is raised, it is the suspect's burden to prove otherwise.

#### **GRADE OF OFFENSE: FELONY vs. MISDEMEANOR**

Section 570.120.4 provides that the crime of passing a bad check is a class A misdemeanor (punishable up to one year in jail, and/or a fine up to one thousand dollars). However, passing a bad check can be a class D felony (punishable up to four years in prison and/or a fine up to five thousand dollars) in the following instances:

- 1) The check was written on a closed account or a nonexistent account, or
- 2) The face amount of the check is five hundred dollars or more.

In determining the level of the offense, §570.120.3 allows the prosecutor to add the total face value of any bad checks written by the suspect during one course of conduct over a ten-day period. This provision offers a means to upgrade the level of the offense to a felony for suspects who write several bad checks over a short period of time, even if each individual check was written for less than five hundred dollars.

## FRAUDULENTLY STOPPING PAYMENT ON AN INSTRUMENT, §570.125 RSMo

Issues often arise in situations where a suspect passes a check to a merchant, but stops payment on the check before it is presented for deposit. In this scenario, it is necessary to prove that the suspect knowingly stopped payment on the check with the purpose to defraud. If this is established, the suspect can be charged for fraudulently stopping payment on a check under §570.125 RSMo. It can be difficult to establish that the suspect passed the check with the plan to stop payment at a later date. Commonly, a suspect passes a check to the merchant with the expectation that it will be paid, but later becomes dissatisfied with the services or merchandise provided by the merchant. At that point, the suspect stops payment on the check because the suspect believes the merchant's obligation was not fulfilled. In such an instance, it will be necessary to determine whether the suspect stopped payment with the purpose to defraud. The prosecutor should consider on a case-by-case bais whether a criminal charge is proper based on whether the suspect stopped payment on the check with the purpose to defraud. Contract disputes between the merchant and the suspect, and should be pursued through civil court.

In instances where a suspect does stop payment fraudulently, the primary concern will be presenting evidence of the suspect's intent to defraud. Keep in mind that unlike the bad check statute that contains the "ten day letter" provision to establish intent, the statute for fraudulently stopping payment on an instrument does not. Therefore, a successful prosecution will require proof of intent such as a pattern of stopping payment on checks that shows the suspect's scheme to defraud merchants, or bank records showing that were insufficent funds or a closed account when the check was passed and the stop payment order made. Keep in mind that the "notice" in this statute must be by certified or registered mail under Section 570.125.4.

# HANDLING BAD CHECKS

## **SECTION 2** - HANDLING BAD CHECKS (INTAKE)

Typically, the initial complaint regarding a bad check is filed with the prosecuting attorney and not the local police or sheriff. The complaining party (or victim) will be referred to the prosecutor's office with the bad check. The prosecutor's office will be responsible for taking the complaint, storing the physical evidence (the check), obtaining statements, investigating the case and, if need be, preparing the case for filing. Offices establishing procedures may wish to consider the practice of requiring victims/merchants to file police reports prior to the involvement of the prosecutor's office. The St. Louis County Prosecutor's Office, for example, requires the complaining party to file a police report prior to the prosecutor's office taking any action, just as in any other criminal case. This practice assists in the investigation of the case and issues of proof later on.

To begin the process, prosecutor's offices must have an initial complaint form upon which all essential data concerning the original check transaction can be recorded. *Attachment A* contains several examples of complaint forms used by Missouri Prosecutor Offices. The initial complaint form will be completed by the victim and turned over to the prosecutor with the bad check. The victim must complete a complaint form for each check. Checks and forms may be received either by mail or hand delivered from the victim to the prosecutor's office. It is essential that this form contain all necessary factual information as this form may eventually become the basis for the probable cause statement required for filing charges.

Proper identification for the check writer must be supplied for prosecution to be initiated. A valid drivers license number and state of issuance should be taken as identification. Merchants should be instructed to always get this information from check writers. It is also helpful if the check contains the initials or identification number of the store clerk who accepted the check. The clerk may later become a witness if charges are filed.

If all of the information requested on the initial complaint form is not available, the prosecutor's ability to help collect the bad check is limited to sending a warning letter to the issuer.

## THE PROSECUTOR SHOULD REVIEW ALL COMPLAINTS WITH THE FOLLOWING CONSIDERATIONS:

## 1) Was the check passed in this JURISDICTION?

Upon receipt of the form and the check, the Prosecutor's office will determine whether jurisdiction is proper. Under section 570.120.1 (1) jurisdiction may lie where the check is "made, issued, or passed." Theoretically, it could also be established that a person wrote (i.e., made) the check in County A, and then mailed it to County B, with an element of the crime occurring in each county. In this circumstance, both counties would have jurisdiction under 541.033, RSMo.

In most cases, jurisdiction will lie where the check was received or passed. This is because:
1) it will be easier to prove where a victim received the check than where the defendant made the check, and 2) more than likely, the prosecutor's office will be prosecuting on behalf of victims that reside within that county. For checks received by mail, jurisdiction lies in the county in which the check was received. State v. Athans, 490 S.W. 2d 25 (Mo.1973).

While generally, the location or address of the bank and the location or address of the passer is not relevant, there may be a circumstance where the victim is unable to receive assistance where the check was received. At that point, the prosecutor's office might consider prosecuting where the check was made.

## 2) Was the check POST-DATED/HELD?

Checks that are post-dated or held generally are not processed through the prosecutor's office because of the evidentiary problems related to proof of criminal intent. There is almost always insufficient evidence of criminal intent in these cases to justify a criminal charge. Because criminal intent is unnecessary in civil court, however, prosecutors often encourage merchants to pursue that avenue.

Any prosecution for passing bad checks will require proving the proper mental state or intent of the passer of the check. The suspect must possess intent to commit the crime of passing a bad check **at the time the check is passed**. Usually, when an individual writes a check to a merchant, the check writer is representing that there are sufficient funds in the account to cover the check immediately. When it is shown that the check writer knew this representation to be false at the time the check was written, the crime of passing a bad check has occurred.

For that reason, the prosecutor's office will verify that the check was not postdated or held. In this situation, the check writer issues a check to the merchant in exchange for cash, merchandise, or services. Although the check writer receives those items immediately, the check is post-dated with the understanding that the merchant will not attempt to deposit the check before the agreed-upon date. Furthermore, it is understood between the parties that there are insufficient funds in the check writer's account at the time the check is passed.

Commonly, the check will be dishonored by the bank due to insufficient funds when the merchant attempts to deposit the check on the agreed upon date. In this situation, it will be very difficult to prove the check writer guilty of passing a bad check. This is true for two reasons. First, both parties were aware at the time the check was passed that the account did not have sufficient funds. Therefore, the check writer did not represent that the funds were available immediately. Second, it is difficult to establish that at the time the check was written, the check writer intended for the check to be dishonored on a future date. Indeed, it is common for check writers in these situations to believe that they will have sufficient funds on the future date agreed upon by the parties. Although a check writer may later realize that there will still be insufficient funds in the account when the agreed upon date arrives, there is no evidence that the check writer knew or intended this result at the time the check was passed.

## 3) Has the victim accepted PARTIAL PAYMENT for this check?

When a merchant/individual has accepted partial payment, the check should be considered a promissory note and cannot be accepted for recovery or prosecution. Accepting partial payment means that the victim has agreed to let the issuer pay off the debt in several payments, or accept less than the full amount owed.

## 4) Has the victim RECOVERED the PROPERTY?

The prosecutor's office should develop a policy on whether to file charges when a merchant receives partial payment or when the property was recovered. Under Section 570.120.1(2), the suspect must fail to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid. If the property exchanged for the check has been returned or recovered by the victim, an issue is raised as to whether the suspect failed to make good on the check. Whether the merchant/individual can submit the check for prosecution may depend on the point at which the merchandise is returned. If the merchandise is returned in good condition, it could be argued that the suspect made good on the check and the merchant would be getting the benefit of returned merchandise and the amount of the check. For example: A check writer purchases a TV with a bad check from a store. Upon receipt of the 10-day letter from the prosecutor's office, he returns the TV to the store before the 10-day notice has expired. The issue has been resolved.

## 5) Has the STATUTE OF LIMITATIONS for legal action expired on this check?

The prosecutor's office will verify that the check falls within the statute of limitations under Section 556.036, RSMo, which sets the time limits for filing criminal charges in misdemeanor and felony cases. A misdemeanor criminal charge must be commenced within one year of the date of the offense. A felony criminal charge must be commenced within three years of the date of offense.

According to the passing bad checks statute, Section 570.120.4 RSMo, insufficient funds checks that are written in amounts less than \$500 are misdemeanors and must be prosecuted within a year. Any checks written on a closed account and insufficient funds checks of \$500 or more are felonies, with a three-year time frame for prosecution. As stated above, typically, the date of offense will be the date the check was passed to the victim. This means that the office

must file either an information or indictment with the court within one or three years from the date the check was passed, depending on the grade of the offense. Amounts may be aggregated to elevate the crime to a felony. If the statute of limitations has expired, a check cannot be accepted for prosecution.

Once an information or indictment , or complaint is filed, the time limit stops running. Because an information is the first pleading filed in misdemeanor cases, the time limit will stop running at the first filing. The same is true of felony cases pursued through a grand jury indictment. However, in instances where a felony charge is filed in associate circuit court by a felony complaint, the time limit will continue to run unless and until the case is bound over to circuit court and a felony information is filed.

## TYPES OF CHECKS WHICH MAY BE PROSECUTED

Insufficient, account closed/no account, stop payment and payday loan checks stamped account closed may be prosecuted as "bad checks."

## **INSUFFICIENT FUNDS**

A check stamped "insufficient funds" indicates that funds were not available to pay for the amount of the check, and the check has been returned to the merchant/individual. While it is not required for an insufficient funds check to be submitted by the merchant to the bank of first deposit twice, it is a good practice for the merchant/individual to exercise. A check will often clear when presented the second time.

## **ACCOUNT CLOSED**

When a check is returned "account closed," this does not necessarily mean that the check writer knew he/she was writing a check on a closed account. The vast majority of account closed checks are returned with that designation because the bank has closed the account. Generally, this occurs due to excessive insufficient fund activity on the part of the account owner, with no subsequent deposits to offset the overdrafts. When a bank closes a customer's checking account, it is doing so based upon the institution's particular policy for dealing with overdrawn accounts. To prove the defendant passed an account-closed check "with the purpose to defraud," the prosecutor has to be able to show that the check writer had knowledge that the account was closed. In an ideal world, this would be done with the postal receipt signed by the check writer when accepting written notification from the bank that his/her account has been closed. Unfortunately, very few banks mail this notification certified and/or registered and even if they do, this doesn't ensure that the check writer will go to the post office to pick up the item.

## **NO ACCOUNT**

When a check is drawn on a nonexistent bank or on a bank that has not been in business for a significant amount of time, a check will be returned "no account." There are several reasons that a check may be returned in this category. The check writer may have had an account at that financial institution at one time, but the account has been closed for an extended period of time – perhaps due to no activity on the account. It is also possible that the check writer knew that the bank was fictitious or no longer operating, and has issued a counterfeit check. In this age of computer technology, it is possible to print counterfeit checks on home computers.

#### **STOP PAYMENT**

According to Section 570.125, RSMo, a person fraudulently "stops payment" on an instrument if he, knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services. The offense is a Class A misdemeanor or Class D felony, depending on the face value of the check. Overall, a greater number of stop payment checks are civil disputes between the merchant/victim and the check writer based on the quality of a product or service received. **Attachment B** contains examples of procedures to be followed in pursuing stop payment checks.

#### PAYDAY LOAN – ACCOUNT CLOSED OR STOP PAYMENT

The payday loan scenario was specifically addressed by the Missouri Legislature in 2002. Section 408.505.8 RSMo does not permit bad-check prosecutions in these cases when the check was dishonored **due to insufficient funds**. However, according to Section 408.505.8, a bad-check prosecution can go forward if a check writer provides a merchant a post-dated check that is dishonored because the check writer closed the account before the agreed upon date, or if the check writer stopped payment on the check. This is true because in these two instances, there is evidence that the check writer never intended for the check to clear the bank, and merely used the post-dated check as a scheme with which to relieve the loan company of its money. Often when filing bankruptcy, a check writer will be instructed by his/her attorney to issue stop payment orders on payday loan checks.

## TYPES OF CHECKS WHICH CANNOT BE PROSECUTED

Checks that do not meet the criteria of "bad checks" under the statute and therefore cannot be prosecuted include: payday loads - insufficient funds; forgeries chargeable under Section 570.090 RSMo; credit card checks; two-party checks; government checks; payroll checks; out-of-state checks; refer to maker; ACH transfers; and checks without the issuers identification. **Attachment C** contains a sample letter, which may be sent to merchants explaining the inability to prosecute payroll checks.

Even though criminal charges cannot be filed, a 10-day notice may be sent to the check writer in the above instances. Many times the issuer will respond to the letter sent by the prosecutor's office, paying restitution without criminal prosecution.

#### **CREDIT CARD CHECKS**

Credit card checks are viewed as an over-extension of a line of credit that is contractual between the account owner and the credit card company, and therefore cannot be processed as bad checks.

## **REFER TO MAKER**

Checks returned "refer to maker" may have been returned for a number of reasons, but cannot be submitted for prosecution. The bank may be in the process of closing the account. There may be a lien or garnishment on the account. Or there may be uncollected funds charged to the account.

#### **FORGERIES**

Generally, "forgeries" occur when a person's checkbook is lost and/or stolen and the check is later forged. In these cases, the account-owner did not make or pass the check, or give consent for another individual to pass a check using the account-owner's name. In this situation, the unauthorized check-writer should not be pursued for writing a bad check, but rather, for forgery under Section 570.090, RSMo.

When the account owner reports the loss to his/her bank, the bank will instruct the account owner to either put a stop payment on the check(s) or to close the account altogether. When the check(s) arrives at the bank for payment, it will be returned to the merchant/individual that accepted the check stamped "stop payment" or "account closed," and subsequently will be submitted to the prosecutor's office as any other check of that nature would be. Upon response from the account owner, the prosecutor's office will instruct him/her to obtain an "Affidavit of Forgery" from the bank referencing the forged checks. In addition, the account owner should be instructed to file a police report. The original check(s), the forgery affidavit, and the police report number will be forwarded to the merchant/individual. (See Attachment D.)

# **NOTICES**

## **SECTION 3** – NOTICES

Using the information contained on the information/complaint form submitted by the merchant, a ten-day notice letter, as set forth in Section 570.120.2, RSMo., should be generated and sent to the bad check writer. *Attachment E* contains examples of ten-day letters from various counties. The ten-day notice letter should include: the check number and date of the bad check, to whom the check was written, the amount of restitution (to include, the amount of the check and the total amount of the fees - service, administrative handling, and MOPS), the total amount due, and the date by which they must respond. If more than one check has been received on the same individual, list each check separately on the notice, with all applicable fees and totals. Notices for fraudulent stop payment cases can be found in *Attachment F*.

While it is not required under the criminal statute, it is the policy of some offices to send a second notice giving the defendant an additional 5-10 days to pay restitution. (See **Attachment G.** ) The second notice letter contains much the same language as the initial notice, except it reminds the bad check writer that it is the second and final notice, and that criminal charges will be filed after the additional days granted expire. All of the resources available to the prosecutor's office and the community should be used to locate the check writer for the second or final notice. Great resources include MULES/NCIC, personal property tax records, and utilities. **Attachment H** contains a notice filed in the case of Bankruptcy by the check writer.

The majority of bad check writers respond within the allocated time period referenced in the notice letters and pay restitution. If the returned check is not paid within the given time period, the prosecutor's office will generally proceed with criminal prosecution, and a warrant or summons will be issued. Again, the procedure may vary if the prosecutor's office has the policy of requiring the victim to file a police report which will then be presented to the prosecutor's warrant office for determination of charges.

Section 570.120 RSMo, does not require that notices be sent by certified and/or registered mail. Section 570.120.2, RSMo states that the requirement of notice has been met if written communication was tendered to the defendant, even in situations where the defendant refused to accept it. However, if criminal charges are to be filed on fraudulent stop payment checks, certified and/or registered mailing is required under Section 570.125.4, RSMo.

## FRAUDULENT STOP PAYMENTS

Stop payments may be prosecuted as bad checks after the victim has sent a 10-day certified or registered letter to the issuer, which the recipient has signed for. (Section 570.125.4, RSMo.) The victim should maintain a copy of the letter for reference. If the victim receives no response within 10-days, the check may be turned over for prosecution. The victim must submit the stop payment check, a bad check complaint form, a copy of the 10-day letter that was sent to the issuer, and a copy of the certified letter receipt showing whether the letter was signed for or "refused." (Examples of stop payment letters can be found in **Attachment F**.)

# **METHODS OF PAYMENT**

## **SECTION 4 - METHODS OF PAYMENT**

There are different methods for payment of bad checks by the violator, and each can be modified to meet the needs of a particular office. It is advisable on the notice letter to prominently locate the language that the Prosecuting Attorney's Office only accepts cashier's checks, money orders, attorney escrow/trust account checks, or bond checks from the court – NO CASH. (As a matter of policy, the prosecutor's office should not accept cash.) Requiring payment with a cashier's check or money order for bad check restitution leaves no room for improprieties.

If a person comes into the prosecutor's office with cash, they may be referred to the nearest bank or post office to obtain a money order. Since there is often a fee associated with obtaining a money order/cashier's check, the prosecutor's office may wish to set up an agreement with the nearest institution to waive the fee for individuals obtaining negotiable instruments to make good on bad checks. In such an agreement, the office may complete a form that the issuer will take with him/her to the bank. This has been a successful practice in a number of counties.

## **MULTIPLE MONEY ORDERS / CASHIERS CHECKS**

One commonly used policy by those offices without computer programs, requires the bad check writer to supply two separate cashier's checks or money orders to the bad check department. When using this policy, one cashier's check or money order will be made payable to the merchant for the amount of the bad check and an optional merchant service charge pursuant to section 570.120.6 RSMo. The other will be made payable to the prosecuting attorney for the amount of the administrative handling and MOPS fees. This procedure allows the bad check department to send one cashier's check or money order directly to the merchant without the need of writing a check, and depositing the other cashier's check or money order into the prosecutor's bad check account.

### **ONE MONEY ORDER / CASHIERS CHECK**

Another method of payment is to require one cashier's check or money order that includes all fees and service charges. This cashier's check is deposited into the prosecutor's bank account and checks are written to the merchant for the amount of the bad check and an optional merchant service charge. (This incidentally is a good public relations tool for the prosecutor. Constituents will notice the value of the prosecutor's office to the community, which as an elected official is good news.)

## ATTORNEY ESCROW / TRUST ACCOUNT CHECK

A third form of payment that is acceptable is an attorney escrow/trust account check. This can be established when an attorney has entered an appearance for the bad check writer, and generally will only occur after criminal charges have been filed.

# **ASSOCIATED FEES**

## **SECTION 5** – ASSOCIATED FEES

Under Section 570.120, bad check restitution should include: the face amount of the bad check, the merchant fee, the administrative handling (prosecutor) fee, and the MOPS fee.

The prosecuting attorney may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check, will be turned over to the party to whom the bad check was issued.



In addition to the service fee and the administrative handling cost, the prosecuting attorney shall collect an additional cost of \$1 per check for deposit to the Missouri Office of Prosecution Services fund. All moneys collected for MOPS should be transmitted monthly from the county treasurer to the Missouri Director of Revenue. The Director of Revenue has distributed a form for all county Treasurers to fill out and send with payment.

Collected fees shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney, upon warrants issued by the prosecuting attorney directing the treasurer to issue checks for purposes related to this action.

# PROCESSING PAYMENTS

## **SECTION 6 – PROCESSING PAYMENTS**

Upon receipt of payment, the prosecutor's office should photocopy the bad check and the negotiable instrument submitted for restitution. A receipt for payment should be provided to the issuer. Receipts should contain the following information: the date, the name of the person who took the restitution payment, the total amount paid, a breakdown of the restitution payment and the associated fees, the name of the person paying the restitution, and the method of payment. (See example – *Attachment I*.) The office must maintain all copies in the defendant file. Once restitution has been made, the bad check/checks may be returned to the issuer. **Do not return bad checks to the issuer until they are paid in full. This is evidence.** 

The office should update any records kept (automated systems, journals, etc.) showing that the debt has been paid, and indicating any fees collected.

Depending on office procedures (whether restitution and fees are included on the same negotiable instrument or separate negotiable instruments), restitution will be sent directly to the merchant or deposited into a restitution account where a check will be processed from the prosecutor to the merchant. **Attachment J** contains various letters addressing restitution and fees.

Disbursement of the collected restitution can be in the form of a check, money order or cashier's check. If the office has a software program, the disbursement is done by check. Some offices hand-write checks, and others require the defendant to pay restitution in full with a cashier's check or money order payable to the merchant, with a separate cashier's check or money order for the administrative handling and MOPS fees.

Full restitution is required to prevent criminal charges from being filed; however, partial payment of restitution is sometimes a necessary part of the collection of bad checks. A request for an extension of time to pay should be granted or denied based upon the prosecutor's office policy. Remember, the longer time given to the check writer, the less likely the office may be to receive payment, with the risk of the statute of limitations expiring.

Accepting partial payment, not only converts the prosecutor's office into a collection agency, but it forces personnel to decide who gets paid first – the victim or the prosecutor's office? If the prosecutor's office maintains a policy that partial payments will not be accepted, everyone gets paid at the same time. Dilemma solved! **Attachment K** contains a letter refusing partial payment by a prosecutor's office.

A good check and balance policy for the bad check fund is recommended. Whenever possible, the prosecutor and one other person (someone other than the bad check specialist) should sign the disbursement checks. This removes even the appearance of improprieties with regard to the disbursement. The prosecutor should designate someone other than the bad check specialist to balance the bank statement for the bad check account. In some counties, the County Auditor may require bank statements and reports of the disbursements be submitted to that office monthly. If software allows, the office should be able to provide daily, monthly, and annual reports showing money received as well as paid out.

# **CHARGING DECISIONS**

## **SECTION 7 – CHARGING DECISIONS**

If restitution has not been made following the first or second notice, checks will be reviewed for charging. There are several considerations before filing criminal bad check charges.

#### **CONSIDERATIONS BEFORE FILING**

## 1) Does the information/ complaint form contain all the necessary information for filing criminal charges?

The pedigree information is a necessary component of the charging document. The name, address, pedigree (i.e. drivers license, date of birth, social security number, gender, race, etc.) information should be reviewed for accuracy. The name of police department, the police report number, and the OCN (offense cycle number) must also be included if they exist. If filing an information in a misdemeanor case, the pedigree information is required for the summons and if filing a complaint in a felony, the pedigree is required for securing a warrant.

## 2) Can the person who accepted the check identify the defendant as the check writer?

Occasionally, a check writer is known personally to the acceptor, or is a frequent customer in that business. But because of the volume of customers in any business, independent recollection is generally forgotten by the check acceptor by the time the check writer appears in court. Can the check acceptor identify his/her own initials or appropriate markings on the check? Can the check acceptor testify that he/she compared the signature on the check with that of the driver's license presented for identification? And did the check acceptor compare the face of the check writer with the photo on the driver's license and determine they were the same person? If the answer to all of these questions is "yes," there will be a positive identification.

## 3) Does the crime constitute a misdemeanor or a felony?

After determining whether the bad check can be prosecuted criminally, consideration must be given to the issue of filing the charges as a misdemeanor or felony. Many offices have a predetermined office policy where the majority of the insufficient funds check cases are prosecuted as misdemeanors, and the standard amount for filing a felony is higher than the \$500.00 required by statute.

Consider certain variables when determining what will be charged as a felony and what will be charged as a misdemeanor. Does the check writer have prior convictions? Has the check writer had a long history of bad checks in the prosecutor's office that were either paid or perhaps returned to the merchants? Look at each check writer individually when making those decisions.

## 4) How many counts to file?

Section 570.120.3 provides that the face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense. When there are multiple checks involved, the decision must be made whether to file all checks as separate counts, or whether to charge a felony on the checks aggregating more than \$500.00 within the ten day period. This policy can be established by the prosecuting attorney. Many times when charges are prepared, charges are filed on one check which meets all the criteria needed (especially identification, and the remaining checks are added to the total restitution required at the time of the disposition. As long as a criminal case is active and subject to the statute of limitations, additional checks can be incorporated into the existing file. If a significant number of checks are submitted, the prosecutor may consider raising the defendant's charge from a misdemeanor to a felony.

It is possible to continue receiving bad checks on the same defendant written during the same ten day period after the case has been disposed. If the defendant is on probation, the State can ask the Court to amend the restitution order to include more restitution for the additional checks, or the defendant may choose to pay them directly. Because the additional

checks were written while on probation, it is a question of policy for the prosecutor as to whether new charges should be filed, but many prosecutors will seek to increase the restitution order. Many offices seek revocation of probation on recidivists.

If a determination has been made that a check cannot be prosecuted, a letter should be sent to the merchant with an explanation for the refusal along with the original check. (See **Attachment L.**) A copy of the check and all correspondence including the complaint form, the first and second notices sent to the issuer, and the letter to the merchant explaining the reason for the inability to prosecute the check should be kept on file. Some offices close out files on refusals after 90 days, although a data entry record is made regarding the case.

# TYPES OF CHARGES FILED

## **SECTION 8 – TYPES OF CHARGES FILED**

Once the classification of charge has been determined, the prosecutor must decide whether to issue a criminal summons or a warrant for arrest. A summons will generally get the defendant into court quicker, as opposed to a warrant. With a summons, the defendant does not have to post bond, thereby leaving money available for restitution. When issuing a summons, the prosecutor must file a "Motion to Compel Defendant to Submit to Fingerprinting," pursuant to Section 43.506.6, RSMo. (See example – **Attachment M**). Under the summons, without fingerprinting, the defendant's conviction for passing bad checks will not be reported on any criminal history. While a misdemeanor charge of passing a bad check is not a reportable offense to the Criminal History Repository at the Missouri State Highway Patrol, submission of the information is optional and the information will be entered into the criminal history record database if received.

Current law requires that a probable cause statement be filed with all charging documents. Some courts will allow the information/complaint form to be used as the probable cause statement provided the correct language is added, and the form is filed with the charging document and summons/warrant. While the probable cause statement can be on the complaint, form language in the complaint itself will not suffice as a probable cause statement. Charging of misdemeanors is addressed in Missouri Supreme Court Rule 21 and charging of felonies is addressed in Supreme Court Rule 22. Probable cause statements are specifically addressed in Supreme Court Rules 21.02- 21.04; 22.02 - 22.03. See also: Missouri Approved Charges - Criminal (MACH-CR) 2.00, Supplemental Notes on Use, MACH-CR 24 et. seq. While sample copies of charging documents are included in this section, the prosecutor must always consult the appropriate MACH-CR's for accuracy and potential changes. As noted in Section 2, many offices incorporate or use the information supplied on the Bad Check Complaint Form filed by the victim with the prosecutor's office. (See examples – **Section 2: Attachment A.**)

Typically, felony warrants will be filed on felony-level checks and a summons will be issued on misdemeanor checks. As discussed in Section 7, a charge will typically be filed on one check. If the issuer has multiple checks within the statute of limitations, the total restitution should include all checks, including checks received after cases have been filed. The prosecutor may, at his or her discretion, choose to include multiple counts in the case. The total amount of bad checks as well as the criminal history of the issuer often determines if multiple counts will be filed.

While many offices have different charging procedures, the following is a general description of the method of filing charges.

## Misdemeanor Insufficient Funds - Section 570.120, RSMo.

When a check for less than \$500 has not been paid, and notices have been sent, misdemeanor charges are filed. The prosecutor's office will submit an infomation and fingerprint motion (*Attachment M*), a copy of the check and check complaint form, a request to mail criminal summons, and a probable cause statement to the Associate Circuit Court. The Associate Circuit Court will assign a case number and return it to the prosecutor. The prosecutor will mail victim witness notifications, and will maintain copies of victim impact statements in the prosecutor's file along with copies of all correspondence.

When a check for less than \$500 has not been paid, notices have been sent, and there is a good address to initiate correspondence, the prosecutor's office will generally proceed with a summons. If the notices have been returned undeliverable, the office might consider filing a warrant under Supreme Court Rule 21.03(a). Under that rule, a summons will be issued in a misdemeanor case unless there are reasonable grounds to believe that: 1) the defendant will not appear upon the summons; or 2) the defendant poses a danger to a crime victim, the community, or any other person.

The prosecutor's office will complete a probable cause statement, and an information for both the prosecutor and the victim. Both signed informations, the probable cause statement, and a warrant sheet (if one exists), will be submitted to the Associate Circuit Court. The Associate Circuit Court will assign a case number and return it to the prosecutor. The prosecutor will mail victim witness

notifications. Victim impact statements should be maintained in the Prosecutor's file along with copies of all correspondence.

## Felony Insufficient Funds - Section 570.120, RSMo.

When a check over \$500 has not been paid, a felony complaint and warrant may be issued at the associate level. There are times that the office may issue a summons. If a warrant is issued, a probable cause statement and two warrant sheets must be submitted to the Associate Circuit Court. Two warrant sheets are necessary because one is to be served on the defendant and the other is to be returned to the Court. The Associate Circuit Court will assign a case number and return it to the prosecutor. The prosecutor will mail victim witness notifications, and will maintain copies of victim impact statements in the prosecutor's file along with copies of all correspondence.

If the issuer pays restitution while the case is in Associate Circuit Court, the charges may be amended to a misdemeanor. If the felony is bound over to Circuit Court, an information will need to be submitted.

## Felony Account Closed - Section 570.120, RSMo.

This category covers any check written on a closed account regardless of the amount of the check. The check must have been stamped Account Closed the first time it was sent through the bank. A felony complaint issued at the Associate level is required. A probable cause statement and two copies of the warrant sheet must be submitted to the Associate Circuit Court. The Associate Circuit Court will assign a case number and return it to the prosecutor. The prosecutor will mail victim witness notifications, and will maintain copies of victim impact statements in the prosecutor's file along with copies of all correspondence.

If the issuer pays restitution while the case is in Associate Circuit Court, the charges may be amended to misdemeanors. If the felony is bound over to Circuit Court, an information will need to be submitted.

## Aggregate Felony – Section 570.120, RSMo.

This category covers any number of checks with a total exceeding \$500 written within a 10-day time period under Section 570.120.3, RSMo. A felony complaint issued at the Associate level is required. A probable cause statement and two copies of the warrant sheet must be submitted to the Associate Circuit Court. The Associate Circuit Court will assign a case number and return it to the prosecutor. The prosecutor will mail victim witness notifications, and will maintain copies of victim impact statements in the prosecutor's file along with copies of all correspondence.

If the issuer pays restitution while the case is in Associate Circuit Court, the charges may be amended to misdemeanors. If the felony is bound over to Circuit Court, an information will need to be submitted.

## Misdemeanor/Felony Fraudulent Stop Payment - Section 570.125, RSMo.

Stop payments can be filed as either misdemeanors or felonies depending on the amount of the check or checks. The victim is required to send a 10-day certified letter, which must be signed for by the recipient. A copy of the letter should be kept for reference.

If the victim receives no response within 10-days, the check may be turned over for prosecution. The victim must submit the stop payment check, a bad check complaint form, a copy of the 10-day letter that was sent to the issuer, and a copy of the certified letter receipt showing whether the letter was signed for or "refused."

# **PUNISHMENT ISSUES**

## **SECTION 9 - PUNISHMENT ISSUES**

Once criminal charges have been filed, punishment issues must be considered. Restitution for the merchant is the major consideration in formulating the punishment.

The range of punishment on a class A misdemeanor is a term not to exceed one year, Section 558.011.1(5), and/or up to a \$1000 fine, Section 560.016.1(1). The range of punishment for a class D felony is a term not to exceed four years in the Department of Corrections, Section 558.011.1(4), and/or up to a \$5000 fine, Section 560.011.1(1). Alternative sentencing options may include probation with a suspended imposition of sentence with special conditions requiring a financial management course, community service work, "shock time," or not permitting the individual to maintain a checking account.

Placing the defendant on probation with a suspended imposition of sentence (SIS), and generating a payment plan up to five years on felonies is a commonly used policy. While the Division of Probation and Parole does not supervise misdemeanors, a payment plan for a period of six months to two years on misdemeanors may be set up and overseen by the prosecutor's office. The issue of a probation revocation with jail time hanging over the defendant most times helps to keep the payments current. **Attachment N** contains a copy of letters and motions to revoke probation.

For habitual bad check writers, county jail or prison time may be the most appropriate punishment. Keep in mind that if the defendant receives a jail or prison sentence, restitution for the merchant is not possible, as restitution is a condition of probation. The judge's authority to make a defendant pay restitution arises as a condition of the defendant's probation. If the court sentences a defendant to a straight term of jail or prison sentence, the court loses jurisdiction over that defendant once the sentence is executed.

## **DIVERSION OPTIONS**

The passing of bad checks may sometimes be related to problems that reach beyond the care and control of the check writer. Drug Court and Mental Health Court both have an application/referral process.

## **Drug Court**

Illegal drugs are frequently a contributing factor in the passing of bad checks as the drug user may pass bad checks for the purpose of obtaining funds to purchase drugs. Drug Court is a program offered to defendants, who have a confessed drug problem. This program allows the defendant to participate in treatment or counseling, with mandatory weekly court appearances. In addition to the programs, check writers who participate in Drug Court may be required to pay restitution and fees in full. Upon completion of the Drug Court program, which cannot exceed 18 months, the criminal charge of passing bad checks may be dismissed. Many prosecutors are now involved in Drug Court programs. More information may be obtained through the Office of State Court Administrator. *Attachment O* contains an example of a Drug Court eligibility determination form.

#### **Mental Health Court**

Occasionally, a bad check writer is an individual who displays mental health problems. These issues are generally brought to light by family members, caseworkers, or the defense counsel. Mental Health Court offers a vehicle for the defendant to obtain professional assistance, as well as to complete payment of restitution. The defendant is monitored for properly maintaining a medication regime, maintaining counseling and/or treatment, and must appear before the Court on a weekly basis. At the end of the program, the defendant's case can be dismissed; a lesser sentencing recommendation can be made; or, the State can suggest Mental Health Court as a post-plea recommendation. The Boone County Prosecutor's office has a program for referral of offenders to Mental Health Court. *Attachment P* contains a copy of a Mental Health Court Referral Form.

## **Deferred Prosecution**

Because the Division of Probation and Parole no longer supervises misdemeanor Section 570 cases, supervision will be in-house. In addition to a restitution payment plan, the check writer may be required to complete certain conditions of deferral, i.e., money management class, community service work, etc.

# DOCUMENT FILE MANAGEMENT

## **SECTION 10 – DOCUMENT / FILE MANAGEMENT**

One of the most important, if not <u>the</u> most important, elements of a bad check collection system is accurate accounting for all restitution received and disbursed. Poor bookkeeping practices can be the downfall of any elected prosecutor.

All defendant files containing checks should be kept in a <u>locked</u> file cabinet overnight. Defendant files should contain the original complaint form or affidavit, the bounced check, the returned courtesy letter (if not delivered), and a copy of the receipt (if money has been paid by the defendant).

The Secretary of State provides prosecutors with a *Missouri County Prosecutors Records Manual*. The following is the retention schedule pertaining to bad check records as of January 2004. The manual should always be consulted for potential changes.

Felony Case Files	50 years
Misdemeanor Case Files	10 years
Deferred Prosecution Case Files	5 years
Bank Statements	5 years including audit
Statement of Interest Income	5 years including audit
Receipts for Interest Earned	5 years including audit
Check Charge Record	Completion of state audit
Paid Check Record	Completion of state audit
Record of Checks on which Merchants Collected	Completion of state audit
Record of Fees	Completion of state audit
Requisitions from County	Completion of state audit

Numerous systems exist for paperless storage of records. One method is the installation of a scanner attached to a computer server. Closed records are scanned into the computer system and indexed by defendant name and/or cause number. Any paperwork that comes in after the file has been scanned can be scanned into the system and appended into the appropriate file. If the file is needed later, it can be viewed from any network computer or printed if necessary. Other solutions may be scanning and burning the documents to CDs or the older process of microfilming.

# PROSECUTOR BAD CHECK FUND

## **SECTION 11 – PROSECUTOR BAD CHECK FUND**

Section 570.120.5 (1), RSMo, requires the costs shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. Moneys deposited in the bad check fund may be used by the prosecuting attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting attorney and employees' salaries. If the balance is not totally expended annually, the unexpended balance will remain in the fund and accumulate from year to year.

Since this fund is subject to state and local audits, it is important to maintain all fee logs, bills paid from the bad check fund, and bank statements. While the prosecutor maintains and has a separate budget for this fund, many offices have a county official approve purchases made from this fund, or provide a budget for the use of the fund.

# MERCHANT EDUCATION

## **SECTION 12 – MERCHANT EDUCATION**

Education of the merchant is an essential component to prosecuting bad check writers. This education lets the merchant-community know the Prosecutor and his/her staff is working to prevent losses from bad checks. While the assessment of additional fees and charges, and the filing of criminal charges is expected to work as a deterrent for passing bad checks, it is CRITICAL to have as much help as possible from each merchant.

Merchants must understand the importance of obtaining proper identification and the procedure required for successfully collecting restitution and/or prosecution of bad checks. It is essential that the person who accepted the check from the defendant be able to identify him/her in court.

Merchant handbooks are valuable tools in educating merchants and individuals that have received bad checks. Prosecutors and staff may volunteer to go to businesses and educate workers on the importance of proper procedure, and on the assistance that will be required from them in order to prosecute.

Sample handbooks are contained in *Appendix D*.

# BAD CHECK SOFTWARE PROGRAMS

## **SECTION 13 - BAD CHECK SOFTWARE PROGRAMS**

In this age of technology, utilizing any bad check software system will be beneficial to the prosecutor's office. Whether the prosecutor purchases an existing package from a reliable vendor, or has the capability to develop his or her own, these programs benefit everyone - the prosecutor's office, the merchant/individual victims, even the check writers. Once a record is created for a new check writer or a new merchant/individual victim, the information stays forever. These programs enable the prosecutor's staff to generate letters, forms, receipts, reports, etc. In addition, there is always an audit trail of all payments, all checks charged, and all checks returned to the merchant/individual.

## **BENEFITS OF HAVING A SOFTWARE PROGRAM**

Software programs provide for uniform processing and documentation in each case. They allow for easy access to case/offender histories. Reports may be printed for reconciliation and auditing.

#### **NEGATIVES OF USING A SOFTWARE PROGRAM**

When an office comes to rely on the computer program, the office will be at a standstill if/when the computer network goes down. Another obstacle to the initial purchase of a software program is the financial consideration.

## **FUNDING FOR PROGRAMS**

The cost of such software can be minimal or can be expensive. Many times the county general revenue budget does not provide funding for purchasing software. Be creative. Look for grants that may be available for such purposes. During the merchant education phase, the prosecutor should let merchants know the office is looking for donations to purchase software. Once they are made aware of the benefits a bad check software program will provide to them, they may be eager to contribute.

When submitting the county general revenue budget, the prosecutor may include a request for funding to purchase a good software program. The prosecutor should provide statistics to the governing body showing how much money has been generated from recovery of administrative handling costs, and explain how the software will allow for the enhancement of that fund.

Another suggestion for securing the funds necessary to purchase software is through federal grants. Again, be creative. While there may not be grants designed for this specific purpose, if a case can be made to link this type of software to solving another problem, the application for funding may be granted.

Some websites to search for grant information include:

Catalog for Domestic Assistance

http://www.cfda.gov/public/faprs.htm

US Department of Justice

http://www.usdoj.gov/10grants/index.html

US DOJ – Office of Justice Programs

http://www.ojp.usdoj.gov/fundopps.htm

Grantwriting and Fundraising - Nonprofit Resource Center

http://www.not-for-profit.org/grantwriting.htm

# **APPENDIX A**

# **STATUTES**

#### **APPENDIX A - STATUTES**

- 570.120 Crime of passing bad checks, penalty--actual notice given, when--administrative handling costs, amount, deposit in fund--use of fund--additional costs, amount--payroll checks, action, when--service charge may be collected--return of bad check to depositor by financial institution must be on condition that issuer is identifiable.
  - **1.** A person commits the crime of passing a bad check when: (1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or (2) The person makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.
  - **2.** As used in subdivision (2) of subsection 1 of this section, "actual notice in writing" means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.
  - **3.** The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.
  - **4.** Passing bad checks is a class A misdemeanor, unless: (1) The face amount of the check or sight order or the aggregated amounts is five hundred dollars or more; or (2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.
  - 5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. For checks of one hundred dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed fifty dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county. Notwithstanding any law to the contrary, in addition to the administrative handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost of one dollar per check for deposit to the Missouri office of prosecution services fund established in subsection 2 of section 56.765, RSMo. All moneys collected pursuant to this section which are payable to the Missouri office of prosecution services fund shall be transmitted at least monthly by the county treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit of the Missouri office of prosecution services fund under the procedure established pursuant

to subsection 2 of section 56.765, RSMo. (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries. (3) This fund may be audited by the state auditor's office or the appropriate auditing agency. (4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

- **6.** Notwithstanding any other provision of law to the contrary: (1) In addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check, shall be turned over to the party to whom the bad check was issued; (2) If a check that is dishonored or returned unpaid by a financial institution is not referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions of this section, the party to whom the check was issued, or his or her agent or assignee, or a holder, may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.
- **7.** In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.
- **8.** When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

#### 570.125 Fraudulently stopping payment on an instrument, penalties.

- **1.** A person commits the crime of "fraudulently stopping payment of an instrument" if he, knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services.
- **2.** Fraudulently stopping payment of an instrument is a class A misdemeanor, unless the face amount of the check or draft is five hundred dollars or more or, if the stopping of payment of more than one check or draft is involved in the same course of conduct, the aggregate amount is five hundred dollars or more, in which case the offense is a class D felony.
- **3.** It shall be prima facie evidence of a violation of this section if a person stops payment on a check or draft and fails to make good the check or draft, or return or make and comply with reasonable arrangements to return the property for which the check or draft was given in the same or substantially the same condition as when received within ten days after notice in writing from the payee that the check or draft has not been paid because of a stop payment order by the issuer to the drawee.
- **4.** "Notice in writing" means notice deposited as certified or registered mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or draft or to his last known address. The notice shall contain a statement that failure to make good the check or draft within ten days of receipt of the notice may subject the issuer to criminal prosecution.

#### 570.090 Forgeries

- 1. A person commits the crime of forgery if, with the purpose to defraud, the person:

  (1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority; or (2) Erases, obliterates or destroys any writing; or (3) Makes or alters anything other than a writing, including receipts and universal product codes, so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or (4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing including receipts and universal product codes, which the actor knows has been made or altered in the manner described in this section.
- 2. Forgery is a class C felony.

#### 408.505 Term of loans, charges permitted, repayment, return check charge.

8. A person does not commit the crime of passing a bad check pursuant to section 570.120, RSMo, if at the time the payee accepts a check or similar sight order for the payment of money, he or she does so with the understanding that the payee will not present it for payment until later and the payee knows or has reason to believe that there are insufficient funds on deposit with the drawee at the time of acceptance. However, this section shall not apply if the person's account on which the instrument was written was closed by the consumer before the agreed-upon date of negotiation or the consumer has stopped payment on the check.

#### 11 U.S.C. sec. 101 through sec. 1330 Bankruptcy.

11 U.S.C. sec. 362(b) is the portion of the code dealing with the exceptions to the automatic stay. Bankruptcy is declared when a debtor is judged legally insolvent. A criminal charge of passing bad checks may be filed against the person or high managerial agent who commits that offense, even if he/she has filed bankruptcy. The bankruptcy does not prevent the charging for the criminal act. However, the bankruptcy may prohibit the prosecutor's request for restitution, administrative handling costs, and MOPS fees.

When questions arise, check the jury instructions for passing bad checks and fraudulently stopping payment on an instrument (MAI-CR 3d, Sections 324.30.1 through 324.30.4, and 324.32).

# **APPENDIX B**

# **DEFINITIONS**

#### **APPENDIX B - DEFINITIONS**

- ◆ Account Closed a person makes, issues, or passes a check drawn on an account which has been closed by either the issuer or the bank.
- ◆ Actual Notice in Writing Section 570.120.2 defines "actual notice in writing" as notice of the nonpayment which is actually received by the defendant Under that section, such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

Notice in writing as defined in 570.125.4 does require the notice to be sent by certified or registered mail and addressed to the issuer at his address as it appears on the dishonored check or draft or to his last known address. The notice shall contain a statement that failure to make good the check or draft within ten days of receipt of the notice may subject the issuer to criminal prosecution.

- ◆ Bad Check insufficient funds are available in the account the check is written from, or there is no such account or drawee.
- ◆ Bankruptcy a debtor is judged legally insolvent.
- ◆ Class A misdemeanor For Passing Bad checks the face amount of the check or the aggregated amounts is less than \$500. Section 570.120.4.
- ◆ Class D felony for Passing Bad Checks the face amount of the check or sight order or the aggregated amounts is \$500 or more, or the issuer has no account with the drawee or if there was no such drawee at the time the check or order was issued. Section 570.120.4.
- ◆ Drawee bank/institution on which an order for the payment of money is drawn, i.e. the suspect's bank.
- ♦ **Drawer** The suspect who is drawing off the bank account.
- ◆ *Forgery* a person makes, completes, alters or authenticates any writing so that it appears to have been made by another or at another time or place; erases, obliterates or destroys any writing; or makes or alters anything other than a writing so that it purports to have a genuineness, which it does not possess. Section 570.090.1
- ◆ Fraudulently Stopping Payment on an Instrument when a person knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services. Section 570.125, RSMo.
- ◆ *Insufficient* inadequate funds exist in the account on which the check is drawn.
- ♦ *Issuer* the person who passed the bad check.
- ◆ Jurisdiction/Venue location (county) in which the bad check was made, issued or passed. Section 570.120.1(2).
- ♦ Non-existing Account a person makes, issues, or passes a check knowing that there is no such account or no such drawee.

- ◆ Out of State Checks checks drawn on an out of state bank/institution and the address of the drawer is out of state.
- ◆ **Payee** business or individual to whom the check is issued or who is accepting the check.
- ♦ **Payor** The suspect who is passing the check.
- ◆ Post-Dated Checks a check is dated for some future date and the obligation for the check arises at that future date.
- ♦ *Restitution* compensation is made by the issuer for payment of the bad check.
- ◆ **Statute of Limitations** time limit during which a bad check can be prosecuted. Section 556.036.

# **APPENDIX C**

# **ATTACHMENTS**

## ATTACHMENT A

# **Bad Check Complainant Questionnaires**

### BAD CHECK UNIT – Jackson County Prosecutor's Office Probable Cause Statement/Bad Check Complaint

<b>VICTIM INFOR</b>	RMATION				
Name:					_
Contact:					_
Address:					_
City:		State:	Zij	p:	_
Business Phone:	Home I	Phone:	Fax:		_
Staple Original Ch	heck Here	<ol> <li>Check n</li> <li>Type or</li> </ol>	for each check submitted tust be stamped by bank. print neatly. completed form to: Bad Check Unit	Prosecutor's Office	
CHECK WRITE	ER INFORMATION				
Name:		Com	pany (if any)		_
Address:	Ci	ity:	State:	Zip:	_
Phone:	Social Security #:	· •	Race:	Sex:	_
Date of Birth:	Driver's License	#	State:		_
Check #:	Check Date:		Check Amo	ount:	_
Can someone iden	ntify the check writer?	Nam	e of Person:		_
What was the che	ck written for (example: groc	eries, merch	andise, cash, etc.)?		_
Where was check	passed (where you received c	check):			_
APPEARANCES AS REQ UNLESS THERE IS PRIC I, KNOWING TH	OOPERATE IN THE PROS QUIRED AND <u>NOT TO AC</u> OR APPROVAL BY THE P HAT FALSE STATEMENT OVE INFORMATION IS T ELIEF.	CEPT PAY PROSECUT S ON THIS	<u>MENT</u> FOR THIS CH TING ATTORNEY'S O S FORM ARE PUNISH	ECK FROM THE OI OFFICE. ABLE BY LAW, HEI	FFENDER REBY
COMPLAINANT/VICTIM	Signature		Print Name		_
	signature		r i ini waine		

Signed this \_\_\_\_\_day of \_\_\_\_\_. 20\_

ROBERT G. WILKINS PROSECUTING ATTORNEY

BAD CHECK COMPLAINT (636) 797-5599

PO BOX 100 HILLSBORO, MO 63050 (636) 797-5063

#### **THIS FORM MUST BE COMPLETELY FILLED OUT!!!**

1. VICTIM:				
Name:		Phone #:		
Address:	_ City:		Zip Code:	
Who <u>actually accepted</u> the check?		Positio	on	
Address:	City:		Zip Code:	
Was the check filled out in the presence of the	e person who a	ccepted the check? If n	not, please	
explain				
Can he or she identify the offender?		Home phone #:		
Who else, if anyone, saw the check passed ar	d can identify?			
Address:	City:		Zip Code	
2. OFFENDER (Check writer / Passer. D	O NOT USE A	COMPANY'S NAME):		
Name:		Phone #:		
Address:	City:		Zip Code:	·
3.IDENTIFICATION SHOWN:				
Drivers License Number:				
Social Security Number:		_ Picture Taken?	Yes	No
4. Did you identify the check writer by			ense, MO I.	D., etc?
			· · · · · ·	,
*** ATTACH CHECK HERE				
5.CHECK INFORMATION:				
Date Check Accepted:		e on Check:		
Check Payable to:		Amount of Check(s	s)	
Reason first refused by bank:		Bank Service	e Charge:	·····
Were you asked to hold check at the time you	accepted it? _			
Was the check postdated?				
If you agreed to hold the check, or the c crime. It is a civil action only.	-	tdated, we cannot pr		offense as a
Has any amount been received in partial payn	nent of the che	ck?		
What have you done to collect the check?				
Was check passed in ABC County? Did offender pass check personally?				
Where was the check actually received? (Deliv	very address, e	tc.)		<del></del>
What was purchased with this check?				
Have you received our BAD CHECK INFORMAT	ΓΙΟΝ PACKET?			
I AGREE TO COOPERATE IN THE PROSECUTION REQUIRED AND <b>NOT TO ACCEPT PAYMENT</b> FOR BY THE PROSECUTING ATTORNEY'S OFFICE.  I, KNOWING THAT FALSE STATEMENTS ON T HI INFORMATION IS TRUE AND ACCURATE TOT HE B	THIS CHECK FROM	OM THE OFFENDER UNLES	SS THERE IS PR Y AFFIRM THAT	IOR APPROVAL
COMPLAINTANT/VICTIM(Original Signatum	·a)	(Drint)		
(Original Signatul	e)	(Print) , 20		

### PROBABLE CAUSE STATEMENT / CHECK INFORMATION SHEET

PLEASE RETURN TO: ST. CHARLES COUNTY PROSECUTING ATTORNEY'S OFFICE 300 NORTH SECOND STREET – SUITE 601 ST CHARLES, MO 63301-5415

#### **CHECK WRITER INFORMATION**

CHECK	( WRITER'S NAME:				
	( WRITER'S STREET ADDRESS:				
	( WRITER'S CITY, STATE, ZIP:				
EMPLO	OYMENT OF CHECK WRITER:				
CHECK	( WRITER'S DATE OF BIRTH:	1111			
CHECK	( WRITER'S DRIVER'S LICENSE:				
CHECK	( WRITER'S SOCIAL SECURITY NUMBE	R:			
AMOUN	NT(S) OF CHECK(S):				
DATE(S	S) OF CHECK(S):				
CHECK	( MADE PAYABLE TO WHO:				
REASO	ON CHECK WAS RETURNED: ( ) INSUF	FICIENT FUNDS ( ) ACCOUN	IT CLOSED ( ) NO A	CCOUNT (	) OTHER
NAME	OF PERSON(S) ACCEPTING THE CHEC	:K(S):			
CAN Y	OU IDENTIFY BY SIGHT, THE PERSON \	WHO GAVE YOU THE CHECK?			
WHAT	WAS THE CHECK(S) IN PAYMENT OF?				
DID TH	E PERSON SAY ANYTHING TO GIVE YO	OU REASON THE CHECK MIGH	HT NOT CLEAR THE E	3ANK?	
IF SO, \	WHAT WAS SAID?				
S	WAS THE CHECK POST-DATED:				
基	WERE YOU ASKED TO HOLD THE CH	HECK FOR A FEW DAYS?			
	IF YES, FOR HOW LONG?				
8	WHAT DATE(S) WAS THE CHECK GIV				
MANT KOMIO MITUM	WHERE WAS THE CHECK(S) GIVEN	TO YOU?	CITY	CTATE	ZIP
Ė	BY WHOM WAS THE CHECK(S) GIVE				
巨	HAS ANY PART OF THE CHECK BEEI				
VOLIDI	ELILI MAME	<u>VICTIM INFORMATION</u>			
	FULL NAME:				
	OF YOUR COMPANY, IF CHECK WRITTI	EN 10 A BUSINESS:			
YOUR	ADDRESS: STREET ADDRESS	CITY	STATE		ZIP
YOUR I	DAYTIME TELEPHONE NUMBER:				
I CERTIE	FY THAT THE FOREGOING FACTS ARE	TRUE TO THE BEST OF MY KI	NOWLEDGE LACKN	OWLEDGE	THAT ANY
	STATEMENTS MADE CAN BE PUNISHED				
		· <b>-</b> · · · · ·			
		SIGNATURE			DATE

### BAD CHECK PROBABLE CAUSE AFFIDAVIT

# YOU MUST ANSWER EACH QUESTION

	CCEPT TWO-PARTY CHECKS			
WAS THE CHECK TAKEN IN DUN				
If the answer is No, stop here, it must be turned over to CHECK WRITER INFORMATION:	the Prosecuting Attorney in the county where it was taken!			
Address				
Driver's License #	Phone #			
Name of Bank	Reason not Paid			
Amount of Check Date of Check				
BUSINESS INFORMATION Name of Business				
Address				
	Person to Contact			
Were you asked to HOLD the check?	Yes No			
Is this a POST DATED check?	Yes No			
DID YOU REQUIRE A PICTURE ID?	Yes No			
What did the maker get for the check? Cash Other				
Name of Person who accepted the check:				
Can that individual identify the person who s	igned the check? Yes No			
Can that individual identify the person who some some secretary in the person who accepted the check:  Can that individual identify the person who some secretary in the person who accepted the check:  Can that individual identify the person who so the person who so the person who so the person who so that individual identify the person who so the person where the person who so the person who so the person who so the per	t Eyes Weight Hair			
Mail to: Stephen P. Sokoloff, Prosecuting Atto PO Box 864 Kennett, MO 63857				
THE STATEMENTS MADE HERE SUBJECT TO THE PENALTIES OF I DECLARATION.				
	AFFIANT			

### **BAD CHECK INFORMATION AND COMPLAINT FORM**

When a bad check complaint is made, the Prosecuting Attorney's Office determines whether criminal charges can be filed. If charges are filed, an arrest warrant is issued, and when arrested, the check writer is brought to court. If the defendant pleads guilty, the court pronounces sentence and the complainant need not appear. If the defendant pleads not guilty, a trial date is set and the witnesses are subpoenaed to testify.

# IT IS ESSENTIAL THAT THE PERSON WHO ACCEPTED THE CHECK FROM THE DEFENDANT BE ABLE TO IDENTIFY HIM/HER IN COURT.

#### **COMPLAINANT:**

Name of business or person defrauded	
Address	Telephone
Name of person who actually accepted check	
Address	Telephone
Can he/she positively identify check writer?	Yes No
Was check postdated? V	Was a partial payment accepted?
Was check passed in Boone County?	Was check received by mail?
Was there any agreement between parties to	hold this check?
CHECK WRITER: Name	
Address	
Driver's License #	State
Date of Birth Place	ce of Employment
Student ID# School	ol
Amount of check(s)	
Additional information regarding check write	er

#### GENERAL INFORMATION & PROCEDURE FOR BAD CHECKS

Cashing a check is a privilege. Insist on proper identification.

These instructions and information will assist you and the Prosecuting Attorney's Office in efficiently handling bad checks. If you do not want the check writer prosecuted, you should NOT bring the check to this office, but should consult your own attorney or private collection agency.

#### **PROCEDURE**:

Upon receipt of check(s) from your bank, complete a Bad Check Information and Complaint Form, attach the check and submit immediately to this office.

In the event of a conviction, should the court order restitution, it will be paid to the Circuit Clerk and distributed to all victims when the total amount has been collected. Should a defendant pay restitution prior to his/her court appearance, it will be collected in this office and sent directly to you.

Absent unusual facts, we will not prosecute checks in the following situations:

- 1. If the person who accepted the check is unknown or not available.
- 2. If the person who accepted the check cannot identify the check writer.
- 3. If you do not have the driver's license number and the state issued.
- 4. If the check is more than 60 days old.
- 5. If you have taken partial payment on the check.
- 6. If you have an agreement between the parties to hold the check.
- 7. If the check was not dated or was postdated.

#### **REQUIREMENTS:**

- 1. Get driver's license number and state where issued.
- 2. Require check to be written in your presence.
- 3. Check must be legible.
- 4. Require current address.
- 5. Checks taken by employees should always be initialed.
- 6. **DON'T TAKE OUT OF STATE CHECKS** unless you are willing to accept the risk of loss.

Please contact this office if you have questions or if we can help you in any way, (573) 886-4121.

### BAD CHECK COMPLAINT

Person who signed check:	Name		
	Address		
	City	State	Zip
To whom should payment be	s cont		
To whom should payment be	Name		
	Address		
	City	State	Zip
Name check was payable to:			
Amount of check:			
Why was check returned?	<ul><li>( ) Insufficient Funds</li><li>( ) No Account</li></ul>	( ) Account Closed ( ) Other	
Date check was received:			
Address at which check was	received:		
	City	State	Zip
Check number:		Date on check:	
	nde payment for any part of it?	( ) NO	( ) YES
Has person or company respo	onsible for check filed bankruptcy	? () NO	( ) YES
Did person accepting check a before cashing it?	agree to hold it for any length of ti	me ( ) NO	( ) YES
•	person bringing or mailing check	` ´	` ′
	Address		
	City	State	Zip
I certify that the foregoing	information is true and correct	to the best of my knowl	edge.
	Signature.		Date
	Signature		Duie

# ATTACHMENT B

# Stop Payment Procedures / Forms

### **Stop Payment Policy**

Under the Missouri Stop Payment Statute, the victim (payee) must give the check issuer written notice that the check has not been paid because of a stop payment order and that the check issuer must make good on the check within ten days. Therefore, to pursue prosecution of the issuer of a stop payment checks, the victim **must**:

- 1. Write a letter to the check issuer stating that the check issuer's check has not been paid because of a stop payment order and include a statement saying:
  - "Failure to make the check good within ten days of receipt of this letter may subject you to criminal prosecution."
- 2. Send the letter via certified or registered mail, return receipt requested, to the address that appears on the check or to the last known address of the check issuer. When the victim gets the return receipt back, attach it to victim's copy of the letter. If the letter is refused or unclaimed and is returned to the victim, please send the envelope stating such and submit it along with the forms.

If the victim has not received payment within ten days of the date on the return receipt, the following documents should be sent to the Bad Check Unit:

Original stop payment check Completed Bad Check Complaint Form Victim's notice letter Return Receipt or returned envelope Stop Payment Offense report

Whether a stop payment check can be prosecuted under the stop payment statute (or pertinent case law) can only be determined by the Assistant Prosecuting Attorney in the Bad Check Unit after reviewing the facts presented by the parties involved in the case. Submission of a stop payment check by following these instructions is a prerequisite to the review process and not a guarantee that the check will be prosecuted.

If it is determined that a stop payment check can be prosecuted, the Bad Check Unit will proceed with the collection of the check.

If the set of circumstances in connection with the stop payment check is determined to be a civil matter and falls outside criminal law, the check will be returned to the victim for collection or other action through the civil process.

Examples of matters that are typically dealt with in the civil rather than criminal process are:

- Disputes over the quality of auto repairs
- Disputes over the quality of appliance repairs
- Post-dated checks
- ❖ Patrol contracts (oral contracts, informal and unwritten)
- **❖** Landlord/tenant disputes
- ❖ Disputes over the quality of goods sold or services rendered

### JACKSON COUNTY STOP PAYMENT OFFENSE REPORT

1. Victim Information:
a. Business Name:
b. Address:
c. Contact:
d. Telephone:
2. Check Writer Information:
a. Name:
b. Address:
c. Social Security #:
d. Race/Gender/D.O.B.:
Please set out in full detail all actions by all parties concerning the check and or transaction:

### DUNKLIN COUNTY PROSECUTING ATTORNEY

Dunklin County Courthouse PO Box 864 Kennett, MO 63857

.....

Stephen P. Sokoloff Prosecuting Attorney

John C. Spielman Assistant Prosecuting Attorney Phone (573) 888-6676

Facsimile (573) 888-6677

# PROCEDURE THAT MUST BE DONE ON A STOP PAYMENT CHECK

Before any Stop payment check can be turned over to this office the following must be done:

- 1. A certified letter needs to be mailed to the person. In your letter, you must state that they have 10 days to make the check good or the check will be turned over to the prosecutor's office.
- 2. After the 10 days are up, bring a copy of the letter you sent, the GREEN card from the cerified letter that was returned to you by the post office, and the check to our office.

Once the following is done we will be able to process the check.

If you have any questions, please do not hesitate to contact my office.

## ATTACHMENT C

# Unable to Prosecute – Merchant Letter Third Party Checks



# OFFICE OF THE PROSECUTING ATTORNEY ROBERT G. WILKINS, PROSECUTING ATTORNEY

JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

July 31, 2003

RE:; Third Party Bad Checks

Dear Sir or Madam:

We are returning a check to your attention. This office will no longer be accepting third-party checks. This check, particularly payroll checks, are impossible to prosecute criminally. The person who passed the check at your business had no provable intent to defraud, and likely did not know the check would be dishonored. This puts us in the position of attempting to obtain the cooperation of the bad check passer in order to prosecute the bad check writer. To complicate the matter further, the checks were frequently passed initially outside of Jefferson County where we have no jurisdiction. Additionally, we must be able to prove that the person who signed the check (many times a bookkeeper/payroll clerk) knew that there were insufficient funds in the bank when they wrote the check. In short, we cannot accept these checks in our office. We will of course continue to assist you in the collection/prosecution of your other check matters, and we appreciate your continued patronage. If you have any question, please call (636) 797-5063. Thank you.

Very truly yours,

**Bad Check Specialist** 

# ATTACHMENT D

# Forgery Procedures & Correspondence

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

#### FORGERY PROCEDURES LETTER

07/31/03

John Q. Public 111184 2323 Main Kansas City, MO 54321

If your checkbook has been stolen and/or if you claim that you have not written the particular check(s) in question this office must receive the following information and documentation from you for our final determination as well as your own protection:

- 1. An AFFIDAVIT OF FORGERY from your Bank. This Affidavit should include the "Series" numbers of the lost /stolen check(s). This office will not provide the series numbers of the lost/stolen check(s) to you under any circumstances!
- 2. A POLICE REPORT regarding the incident leading to the loss or theft of the particular checks. A police report number or request for report will not work -- we need a copy of the actual report that was filed.
- 3. Actual or photocopies of at least 12 CHECKS which were written and passed by you (from the same account would be most helpful but not mandatory). Microfiche copies from the bank are acceptable if legible.
- 4. A copy of your current driver's license or State ID card.
- 5. A daytime phone number is needed to contact you for scheduling an exemplar handwriting test.

Upon presentation of **ALL** of the above information (no exceptions will be made- send in all information at the same time) an investigator will review and report his/her findings to this office.

This office will then advise you by mail as to the necessity of a handwriting exemplar. The information that we provide will only be delivered by the U. S. Postal Service. We must, therefore, have an accurate mailing address.

Please disregard form letters from this office during this period, i.e. Intake Letters; but DO NOT disregard correspondence relating to the forgery investigation.

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

#### SUBMIT HANDWRITING LETTER

07/31/03

John Q. Public 111184 2323 Main Kansas City, MO 64106

We are requesting that you submit to a handwriting exemplar at this time. Please call (816) 881-4640 to make the necessary appointment.

If the Regional Crime Laboratory determines the results of your exemplar to be negative, there will be no charge.

If the results are positive, you will be charged \$100.00 payable to Jackson County.

Failure to abide by this request will be viewed as an attempt to defraud and may result in a warrant for your arrest.

Michael D. Sanders	
Jackson County Prosecutor	
By:	
Bad Check Unit	

Sincerely.

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

### POSITIVE/ISSUER LETTER

08/05/03

John Q. Public	111184
2323 Main	
Kansas City, MO	64106

RE: Handwriting Exemplar

This is to inform you the Regional Crime Laboratory has determined the results of your exemplar to be **POSITIVE.** 

We will expect full restitution within 10 (ten) days of the postmark of this letter. Failure to comply will result in a warrant for your arrest.

Attached is a list of the checks which need to be paid.

There is a charge of \$100.00 for the return of a positive exemplar. This policy was explained to you at the time you were tested.

Sincerery,
Michael D. Sanders
Jackson County Prosecutor
By:
Bad Check Unit

Sincerely

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

### FORGERY/VICTIM LETTER

08/05/03

John Owner
Your Company, Inc.
123 Main
Kansas City, MO 64106

RE: Hand Writing Analysis deemed as Forgery

To Whom It May Concern:

Thank you for referring the enclosed check(s) to our office.

Case	Victim	Chk Nº	Chk Date	Check Amount
111184	Your Company, Inc.	1011	06/01/03	\$50.00

We are unable to process the attached check(s) because it/they has/have been reported as a lost, stolen or forged check(s) and our investigation leads us to believe that the named issuer did not pass the check(s). If you have additional information that does not support our conclusion, please do not hesitate to contact this office.

If you have any questions, please feel free to contact this office at the phone number listed above

Sincerely,	
Michael D. Sanders	
Jackson County Prosecutor	
•	
Rv:	

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

### FORGERY/ISSUER LETTER

08/05/03

John Q. Public	111184
2323 Main	
Kansas City, MO	64106

RE: Handwriting Analysis Deemed as Forgery

Case	Victim	Chk Nº	Chk Date	Check Amount
111184	Your Company, Inc.	1011	06/01/03	\$50.00

The above check(s) written on your account have been deemed as forgery and the check(s) have been returned to the victims. This ends our involvement in the case.

Jackson County Prosec	utor
By:	
Bad Check Unit	

Sincerely,

Michael D. Sanders

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

### INCONCLUSIVE/VICTIM LETTER

08/05/03

John Owner
Your Company, Inc.
123 Main
Kansas City, MO 64106
RE: Hand Writing Analysis

To Whom It May Concern:

Thank you for referring the above referenced check(s) to our office.

We regret to inform you that this office is unable to process the attached check(s). As you know the check(s) was/were reported to this office as lost, stolen or forged. Handwriting samples were taken from the Issuer and submitted to the Regional Crime Laboratory for analysis. The results have been returned as inconclusive.

Therefore, we have concluded that there is insufficient evidence to proceed and we are returning the checks to you. This matter is closed, unless you have additional or new information that we can consider; if so, contact us immediately.

Please do not hesitate to call upon our office if needed.

Sincerely,	
Michael D. Sanders	
Jackson County Prosecutor	
·	
By:	
Bad Check Unit	

Bad Check Unit 200 South Main Street, Independence, MO 64050 816-881-4640

We are returning the enclosed checks that you submitted to our office for collection and/or prosecution. The issuer of these checks has claimed forgery. However, we were unable to complete an investigation of this claim before the statute of limitations expired. The statute of limitations for prosecution of a check is 3 years for insufficient funds checks over the amount of \$500.00, 3 years for account closed checks, and 1 year for insufficient funds checks under \$500.00.

You may still have the opportunity for civil litigation rather than criminal prosecution.

# ATTACHMENT E

10-Day Letter

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

### 10 DAY LETTER

07/31/03

John Q. Public 111184 2323 Main Kansas City, MO 64106

RE: Check to Your Company, Inc.; \$50 Case #111184

The **Prosecuting Attorney** of Jackson County has received the above bad check for collection and/or prosecution. The check, payable to Your Company, Inc. and dated 06/01/03 was not paid by your bank. YOU HAVE TEN (10) DAYS FROM THE POSTMARK OF THIS LETTER TO MAKE <u>FULL RESTITUTION</u>. (Full restitution is the face amount of the check as listed, plus all statutorily authorized costs.) FAILURE TO MAKE FULL RESTITUTION WITHIN THE 10 DAYS MAY RESULT IN THE FILING OF CRIMINAL CHARGES AND YOUR ARREST.

DO NOT DELAY - ANY RESTITUTION PAYMENT RECEIVED AFTER THE ALLOWED TIME WILL ALSO REQUIRE YOUR MANDATORY ATTENDANCE AT A CHECK SCHOOL AT AN ADDITIONAL COST OF AT LEAST \$75.00.

<u>RESTITUTION</u>: You must make <u>two</u> payments by money order. Any other form of payment will be rejected (THIS OFFICE DOES NOT ACCEPT CASH FOR PAYMENTS).

Make one money order payable to: Your Company, Inc. in the amount of \$50.00.

Make a second money order payable to: **Jackson County** in the amount of \$11.00.

Make sure to write our case number 111184 on each money order to ensure that your payment is credited to your case.

RETURN THE BOTTOM PORTION OF THIS LETTER ALONG WITH THE <u>TWO MONEY</u> <u>ORDERS</u>. Your correct restitution will close this matter completely and your case file will not be a public record. Failure to make correct restitution may result in a warrant for your arrest.

(Return this bottom portion with your payment.)

John Q. Publics – ISSUER ID: xxxxxx CASE # 111184

Money Order #1: \$50.00 made payable to: "Your Company, Inc." Money Order #2: \$11.00 made payable to: "Jackson County"

# **REMINDER**: This Office Does **Not** Accept Cash For Payments. Money Orders can be purchased at Banks, Post Offices and most Convenience Stores.

Attachment E

### DUNKLIN COUNTY PROSECUTING ATTORNEY

Dunklin County Courthouse
PO Box 864
Kennett, MO 63857
Phone (573) 888-6676
Stephen P. Sokoloff, Prosecuting Attorney
John C. Spielman, Assistant Prosecuting Attorney

John Q. Public 123 Main Kennett, MO 63857 July 31, 2003

This office has received the above bad check for prosecution. The check, which was issued to Your Company, Inc. on June 1, 2003 was returned because there was closed account from which to pay the check. To prevent further action by this office, you must present full payment of the check, together with the administrative fee and merchant's service charge, to this office by August 9, 2003.

Your payments must be made by SEPARATE MONEY ORDERS and all payments are made to this office. CASH IS NOT ACCEPTED. You may make your payment in person at the Prosecuting Attorney's Office, Third Floor of the Dunklin County Courthouse, Room 307, Kennett, Missouri. You may also pay by mail by sending ALL OF THE MONEY ORDERS TO OUR OFFICE: Prosecuting Attorney's Office, PO Box 864, Kennett, Missouri, 63857.

Passing bad checks is a crime, which is punishable by fine and/or imprisonment. Your failure to comply with the terms of this letter may be used as evidence of your purpose to defraud, pursuant to Section 570.120, RSMo. We will proceed to take action under the law if we do not receive payment from you within ten (10) days. The time to avoid criminal charges is now. Once charges are filed they will not be dismissed.

<u>Victim</u>	Check No.	<u>Ck. Amnt</u> .	V. Fee	<u>P. Fee</u>	Case No.
Your Company, Inc.	1011	50.00	10.00	10.00	111184
Make one MONEY ORDER payable to: Your Company, Inc.				or: \$60.00	
Make one MONEY ORDI Dunklin County	ER payable to:				or: \$10.00



### John P. "Jack" Banas

Prosecuting Attorney for St. Charles County

300 North Second Street, Suite 601 St Charles. MO 63301-5415

636-949-7355 Fax 636-949-7360

#### PLEASE READ THIS CAREFULLY

This office is in receipt of one or more bad checks written by you, which have been turned over to us for criminal prosecution. The check(s) and required collection fee are listed on the enclosed detail page.

Pursuant to Section 570.120 of the Revised Statutes of the State of Missouri, you are being given notice that if full restitution is not made to this office by the date shown on the enclosed detail page, this office will issue a warrant for your arrest, which will possibly result in a criminal record and jail sentence.

The punishment for passing a bad check ranges up to five (5) years in the State Prison and a fine of up to \$5,000.00 for EACH check passed.

This is the only notice you will receive.

#### Instructions for Making Restitution:

- Get a <u>Cashier's Check</u> or <u>Money Order</u> for each of the items listed on the enclosed detail page. <u>ONLY</u> Cashier's Checks or Money Orders will be accepted. NEVER send cash through the mail, and NEVER bring payment in cash to our office. ALWAYS fill in the Make Payable line on Money Orders - Blank Money Orders can be cashed by anyone.
- 2. Place the detail page in the provided envelope with your Cashier's Checks or Money Orders.
- 3. Write your return address on the envelope.
- 4. If you want your original check returned to you, enclose a SELF-ADDRESSED, STAMPED ENVELOPE.
- Place a first class stamp on the provided envelope and mail to St. Charles County Prosecuting Attorney's Office in the enclosed envelope. The Postal Service will return letters without proper postage.

### St. Charles County Prosecuting Attorney's Office

300 North Second Street, Suite 601 St Charles, MO 63301-5415 (636) 949-7375

### Notice of Bad Check(s)

JOHN Q. PUBLIC 2323 MAIN STREET ST CHARLES, MO 63301 July 31, 2003

This office is in receipt of certain bad check(s) written by you which are listed below. See the enclosed INSTRUCTION SHEET to make payment for the following items by: August 9, 2003.

Make one MONEY ORDER payable to: Your Company, Inc

Number of checks written: 1 For: \$50.00

Make one MONEY ORDER payable to: Saint Charles

Number of checks written: 1 County For: \$10.00

(Defendant ID)



# OFFICE OF THE PROSECUTING ATTORNEY ROBERT G. WILKINS, PROSECUTING ATTORNEY

JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599 DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

July 31, 2003

This office has received one or more of your bad checks as described below:

Check<br/>1011Check Date<br/>06/01/03To whom check was written<br/>Your Company, IncCheck Amount<br/>50.00Prosecuting<br/>Attorney Fee<br/>11.00

#### TOTAL AMOUNT DUE: (includes \$20.00 bank fee for each check): \$81.00

This letter gives you one opportunity to take care of the above check(s) no later than August 9, 2003. Failure to follow the instructions below could result in a warrant being issued for your arrest and require you to appear in court.

If you delay, simply paying for the check(s) will not take care of the matter. Once charges are filed, you may incur substantial expense in legal fees, court cost, and bond fees. A conviction for Passing Bad Checks can also carry up to a five year prison sentence for each check passed.

Avoid the possibility of a permanent arrest record in addition to the expense and inconvenience of a criminal case by taking the following steps now.

- 1. Make one CASHIER'S CHECK or MONEY ORDER for \$xx payable to the **Prosecuting Attorney Bad Check Fund.**
- 2. Return this sheet with money order in the provided envelope.

We will not confirm receipt of payment by phone. To receive your check and a receipt, you must include a self-addressed stamped envelope, with payment. Absolutely **NO CASH** or PERSONAL CHECKS will be accepted! Payment must come through this office!

Robert G. Wilkins Prosecuting Attorney

Letter must accompany money order. **DO NOT BRING CASH** to this office.

### Office of the Boone County Prosecuting Attorney

KEVIN M.J. CRANE, Prosecutor

705 E. Walnut – Courthouse Columbia, Missouri 65201-4485 573-886-4100 FAX 573-886-4148

JULY 31, 2003

John Q. Public 2323 Main Columbia, MO 65202

# **MONEY ORDER ONLY**

The following bad check(s) have been turned over to this office for criminal prosecution:

CHECK NUMBER	BUSINESS NAME	CHECK AMOUNT	STORE <u>CHARGE</u>	MOPS	HANDLING <u>FEE</u>
1011	Your Company, Inc TOTALS	<u>50.00</u> 50.00	20.00	1.00 1.00	50.00 50.00

You are hereby notified that you have until AUGUST 9, 2003 to send or bring a money order or cashier's check (NO CASH OR PERSONAL CHECKS) to the Prosecutor's Office, made payable to BOONE COUNTY in the amount of \$121.00. A self-addressed envelope is enclosed to remit your payment.

Section 570.120, RSMo, 2002, provides for payment of an administrative handling fee, store service charge, and MOPS fee, for each check.

No extensions are granted, and no partial payments are accepted.

Failure to make payment as directed above, by the date indicated, will result in your case being reviewed for prosecution.

If you are prosecuted, you will be arrested and every effort will be made by this office to obtain a criminal conviction. The time to prevent this from happening is NOW. Once charges are filed, they will NOT be dismissed upon payment of the bad checks.

If you wish to have your check(s) returned, include a self-addressed, stamped envelope; otherwise, your check(s) will be destroyed.

If you have any questions regarding this letter, please contact the Bad Check Collector, at (573) 886-4121.

Sincerely,

Check Coordinator

Attachment E

## JACKSON COUNTY PROSECUTING ATTORNEY

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

#### **Confirmation Letter**

07/31/03

John Owner Your Company, Inc. 123 Main Kansas City, MO 64106

Please be advised that this office has received the checks(s) listed below, which you submitted for prosecution. We are in the process of contacting the issuer, pursuant to the statute. If you have not received payment on this matter within 60 days, please call this office and refer to the case number shown below.

It is our hope that this matter will be resolved quickly. If you have any questions, please feel free to contact our staff.

Case No	Issuer	Chk Nº	Chk Date	<b>Check Amount</b>
111184	John Q. Publics	1011	06/01/03	\$50.00

1 check, totaling \$50.00

## ATTACHMENT F

# Fraudulent Stop Payment Correspondence

## JACKSON COUNTY PROSECUTING ATTORNEY

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

**Notice: Fraudulent Stop Payment** 

07/31/03

John Q. Public 2323 Main Kansas City, MO 64050

Dear Mr. Public:

The following stop payment check has been turned over to this office for criminal prosecution:

		\$ 121.00	<b>TOTAL</b>
		50.00	Handling Fee
		1.00	MOPS Fee
		20.00	Store Charge
#1011	Your Company, Inc.	\$ 50.00	Check Amount

You are hereby notified that you have until August 9, 2003 to send or bring a money order or cashier's check to the Prosecutor's Office, made payable to JACKSON COUNTY. A Self-addressed envelope is enclosed to remit your payment.

SECTION 570.125, RSMo, states that a person commits the crime of fraudulently stopping payment on an instrument if he knowingly, with the purpose to defraud, stops payment of a check given in payment for the receipt of goods or services. Failure to make payment as directed above, by the date indicated, will result in your case being reviewed for prosecution.

If you are prosecuted, you will be arrested and every effort will be made by this office to obtain a criminal conviction. The time to prevent this from happening is NOW.

If you wish to have your check returned, include a self-addressed, stamped envelope; otherwise, your check will be destroyed.

If you have questions regarding this letter, please contact me at 886-4121 or 886-4116.

Sincerely,

Check Administrator

#### **REGISTERED MAIL**



# OFFICE OF THE PROSECUTING ATTORNEY ROBERT G. WILKINS, PROSECUTING ATTORNEY

JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

#### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599 DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

July 31, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

Re: Your Company, Inc.; check # 1011

Dear Sir:

This office has received a complaint alleging that you fraudulently passed a check by stopping payment. The check in question is number 1011, for  $\$\underline{x}\underline{x}$ , written on 06/01/03. The total restitution due, with fees is  $\$\underline{x}\underline{x}$ . In order to determine whether criminal charges should be filed in this matter, we are requesting information from you. In particular, we need verification that there were funds in your checking account sufficient to cover the face amount of the check written on the date the check in question was passed.

To this end, we are requesting that you provide this office with a copy of bank records/statements indicating your account balance at the time the above returned check was passed, and a brief explanation why the stop payment was issued. Upon our review of these records, we will determine whether criminal charges are appropriate in this matter.

Please forward the requested records of statement to this office within ten (10) days of your receipt of this letter. If we do not receive any response, we will proceed to consider charges against you. If for some reason you are unable to forward records within the allotted time, you may call the Prosecuting Attorney's Bad Check Unit at (636) 797-5599.

If you wish to pay the total restitution at this time, make a cashier's check or money order for \$xx, payable to the P.A. Bad Check Fund, and return it in the enclosed envelope.

Sincerely,

#### Attachment F



# OFFICE OF THE PROSECUTING ATTORNEY ROBERT G. WILKINS, PROSECUTING ATTORNEY

JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

#### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599 DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

July 31, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

RE: Stop Payment – check #1011

Dear Mr. Public:

We have previously attempted to communicate with you by letter regarding your stop payment of check #1011, payable to Your Company, In, for  $\$\underline{x}\underline{x}$ . We have received no response from you, and are now reviewing the complaint for the filing of criminal charges. It is our opinion that stopping payment of a check after you have received the loan money is Stealing by Deceit. Therefore, if restitution is not tendered to this office in the amount of  $\$\underline{x}\underline{x}$  by cashier's check or money order, within five days, we will file criminal charges.

Very truly yours,



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

## BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

July 31, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

Re: check #1011

Dear Sir:

Please be advised that our office has reviewed the information you provided regarding the above check. We have determined that the reasons for stopping payment were insufficient. We are prepared to file against you unless payment is received in this office within ten days. The check in question is number 1011 for \$x, written on June 1, 2003. The total restitution due, with fees is \$x.

Sincerely,

**Bad Check Specialist** 

## ATTACHMENT G

## **Second Notice Letter**

## **JACKSON COUNTY PROSECUTING ATTORNEY**

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

#### LAST ATTEMPT/ISSUER

07/31/03

John Q. Public 2323 Main Kansas City, MO 64050

RE: Last attempt to collect

This is the last attempt that will be made by this office to collect on the balance that you have remaining. Failure to respond within 10 (ten) days of this letter may result in a warrant being issued for your arrest.

Enclosed is a check detail, which lists your outstanding checks and fees.

## YOU MUST CALL OUR OFFICE FOR PAYMENT INSTRUCTIONS.

Sincerely,
Jackson County Prosecutor
By:
Bad Check Unit

## DUNKLIN COUNTY PROSECUTING ATTORNEY

Dunklin County Courthouse PO Box 864 Kennett, MO 63857 Phone (573) 888-6676 Stephen P. Sokoloff, Prosecuting Attorney John C. Spielman, Assistant Prosecuting Attorney

John Q. Public 2323 Main Kennett, MO 63857 August 10, 2003

This office notified you more than 10 days ago concerning the bad check(s) that were written to Your Company, Inc. and you have failed to make the check(s) good. You have until August 20, 2003 to have the following money orders to this office. If they are not received in this office by August 20, 2003, we will have no other choice but to file charges against you.

<u>Victim</u>	Check No.	Ck. Amnt.	V. Fee	P. Fee	Case No.
Your Company, Inc.	1011	50.00	10.00	10.00	111184
Make one MONEY ORDE Your Company, Inc.	ER payable to:			Fo	or: \$60.00
Make one MONEY ORDE Dunklin County	ER payable to:			Fo	or: \$10.00



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

#### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

August 10, 2003

#### **SECOND NOTICE**

According to our records, we show that a 10-day letter was sent to you regarding the following check(s):

				Prosecuting
Check	Check Date	To whom check was written	Check Amount	Attorney Fee
1011	06/01/03	Your Company, Inc.	\$50.00	\$10.00

TOTAL AMOUNT DUE (includes \$20.00 bank fee for each check): \$80.00

THIS IS YOUR FINAL OPPORTUNITY TO AVOID CRIMINAL CHARGES. If payment has not been received in this office within five days of the above date, we will proceed with filing criminal charges against you. To ensure proper credit for your payment:

- Make one money order, payable to the **Prosecuting Attorney Bad Check Fund**, for \$10.00
- Print your name and Social Security Number legibly on the money order, and sign it.
- Enclose this letter along with your payment.
- Send your payment to the Prosecuting Attorney Bad Check Unit at:

Office of the Prosecuting Attorney
Bad Check Unit
PO Box 100
Hillsboro, MO 63050

Payment must come through this office. If you have any questions, please contact us at (636) 797-5599. Absolutely **NO CASH** or PERSONAL CHECKS will be accepted! **This is your last notice.** Unless payment is made on time charges will be filed. ONCE CHARGES ARE FILED WE CANNOT SIMPLY DISMISS THE CASE, AFTER YOU SEND PAYMENT. YOUR APPEARANCE IN COURT WILL BE REQUIRED.

Sincerely,

## St. Charles County Prosecuting Attorney's Office

300 North Second Street, Suite 601 St Charles, MO 63301-5415 (636) 949-7375

#### WARNING OF CRIMINAL CHARGES

JOHN Q. PUBLIC 2323 MAIN ST CHARLES, MO 63301 August 10, 2003

Since you have not responded to the NOTICE OF BAD CHECKS letter that was sent to you, this office is in the process of issuing CRIMINAL CHARGES against you for passing bad checks.

Within the next few days you run the risk of being summoned to appear in court or having a warrant issued for your arrest on the charges of passing bad checks.

If you wish to avoid having to appear in court on these charges, you must appear IMMEDIATELY at our office to pay off all of the bad checks we are holding. We will then stop the processing of these charges.

If you wait until you have been summoned, it is too late to pay off your bad checks, you will then have to appear in court on criminal charges of passing bad checks.

Passing a bad check is a crime, punishable by imprisonment and/or a fine.

Make one MONEY ORDER payable to: Your Company, Inc

Number of checks written: 1 For: \$50.00

Make one MONEY ORDER payable to: Saint Charles

Number of checks written: 1 County For: \$10.00

## APPENDIX C

## ATTACHMENT H

# **Bankruptcy Notice**



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

## BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

August 29, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

Dear Mr. Public:

This office is in receipt of a notice from the United States Bankruptcy Court regarding you petition in bankruptcy. It is the opinion of this office that your criminal conduct in writing/passing a bad check is not mitigated by your subsequent bankruptcy. Restitution of \$xx\$ is still owed to this office. Failure to make payable in accordance with the letter previously sent may result in criminal charges against you for Passing a Bad Check.

Collections Mgr.

## ATTACHMENT I

# Restitution Receipt

## **BAD CHECK RESTITUTION RECEIPT**

(Auditors recommend that all offices use numbered receipts)

DATE	RECEIPT NUMBER
CASE #	
DEFENDANT	
AMOUNT PAID	TOTAL \$
BAD CHECK AMOUNT (including merchant service fee)	\$
PA ADMINISTRATIVE HANDLING FEE	\$
MOPS FEE	\$
METHOD OF PAYMENT	
□ CASHIERS CHECK #	
□ MONEY ORDER #	
□ ATTORNEY / ESCROW CHECK	#
RECEIVED BY	

## ATTACHMENT J

## **Restitution Letters**

## **JACKSON COUNTY PROSECUTING ATTORNEY**

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

#### RESTITUTION LETTER

08/29/03

John Owner Your Company, Inc. 123 Main Kansas City, MO 64106

Enclosed please find certified funds in payment for the checks(s) listed below. Final payment by an issuer concludes our office's involvement with the matter, although we maintain a permanent record of this matter and will take it into consideration in handling any future bad checks passed by the same issuer.

We will continue to aggressively pursue those people who pass bad checks in this community. If you have any questions or comments about the Bad Check Unit, I hope you will call.

Thank you for your cooperation.

Case No	Name		Cl	nk N° Chk D	ate Chec	k
Amt	Fee Amou	unt				
111184	John Q. Public	1011	06/01/03	\$50.00	\$31.00	

Total Amount Checks: \$50.00

Total Fees Collected: \$31.00

Total Amount Collected: \$81.00



## Office of the Boone County Prosecuting Attorney

KEVIN M.J. CRANE, Prosecutor

705 E. Walnut – Courthouse Columbia, Missouri 65201-4485 573-886-4100 FAX 573-886-4148

August 19, 2003

John Q. Public 2323 Main Columbia, MO 65202

> RE: Administrative Handling Costs Store Service Charge MOPS Fees

Dear Mr. Public:

Payment for your bad check to Your Company, Inc. was received after the check was processed through this office.

This office retains possession of this check and will do so until payment of the \$10 administrative handling fee, and \$1.00 MOPS fee, Section 570.120, RSMo, 2002 states payment of fees and service charges are required.

Your money order made payable to Boone County in the amount of \$11.00 is expected in this office by August 29, 2003.

Sincerely,

Check Administrator



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

## BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599 DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

August 19, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

RE: Bad Check # 1011

Dear Mr. Public:

We have been advised that payment has been tendered directly to Your Company, Inc. regarding your bad check #1011. Payment was made to the merchant/bad check recipient after the check had been forwarded to this office for prosecution. As a result, Prosecuting Attorney fees are owed, as provided for in 570.120.5 of the Missouri Revised Statutes. Please remit payment by cashier's check or money order of \$xx to this office within 10 days. Payment may be mailed to:

Jefferson County Prosecuting Attorney Bad Check Unit PO Box 100 Hillsboro, MO 63050

Very truly yours,

Collections Mgr.

# ATTACHMENT K

# Partial Payment Letter



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

## BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

August 19, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

Re: State of Missouri v. Public

Dear Mr. Public:

Enclosed you will find a money order received from you by this office in the amount of  $\$\underline{x}\underline{x}$ . This office does not accept partial payment on uncharged bad checks. You should make payment to this office in compliance with the letter(s) previously sent to you. Payment in full is necessary if you wish to avoid prosecution. You may contact this office at the above number to verify the total amount of restitution and fees now due.

Very truly yours,

Collections Mg.

## ATTACHMENT L

## Unable to Prosecute Merchant Letters

# Office of the Boone County Prosecuting Attorney KEVIN M.J. CRANE, Prosecutor

705 E. Walnut – Courthouse 573-886-4100 Columbia, Missouri 65201-4485 FAX 573-886-4148

	CHECK	K WRITER:	
TORE:		CHECK #:	
THE ATTACHED CHECKEASON(S):	CK(S) IS BEING	RETURNEI	FOR THE FOLLOWING
The circumstances	of this check are ci	vil	
Investigation revea were available	ls this stop paymen	nt check is civ	vil because sufficient funds
the check. (If the i	ndividual who pass	sed the check	e person who actually accepted cannot be identified in court riter cannot be found guilty.)
Out of state check			
CHECK WRITER misdemeanor warra	`	There can be	no extradition on a
No drivers license	number		State of issue unknown
Check is not dated			
Check was post-da	ted		
There was an agree	ment between part	ies to hold ch	neck
Partial payment has	s been accepted		
Person who accepte	ed the check is:	unknown	unavailable
Forgery – contact a	ppropriate law enfo	orcement	
Other			

LETTERS OF NOTICE WITH DEMANDS FOR PAYMENT WERE SENT TO THIS CHECK WRITER, BUT THERE WAS NO RESPONSE.

OFFICE OF THE PROSECUTING ATTORNEY

## DUNKLIN COUNTY PROSECUTING ATTORNEY

Dunklin County Courthouse
PO Box 864
Kennett, MO 63857
Phone (573) 888-6676
Stephen P. Sokoloff, Prosecuting Attorney
John C. Spielman, Assistant Prosecuting Attorney

John Owner Your Company, Inc 123 Main Kennett, MO 63857	August 9, 2003
Dear Sir or Madam:	
Enclosed is a check written on the account of John Q for collection. We are unable to collect or prosecute reasons"	· · · · · · · · · · · · · · · · · · ·
No Identification taken No Social Security Number taken No Date of Birth taken	
The above mentioned information is extremely vital check writers. We are keeping the bad check writers if we receive any other checks with information, we checks paid.	information in our computer system, and
If you have any questions, please feel free to contact	my office.

Stephen P. Sokoloff Prosecuting Attorney

Very truly yours,



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

## BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

August 9, 2003

Re:	Joh	nn Q. Public; check #1011
Dea	ır M	Ierchant/Constituent:
We	are	unable to pursue prosecution in this matter for the following reasons:
	1.	You were asked to hold the check.
	2.	This is a third party check.
	3.	Beyond statute of limitations.
	4.	We are unable to locate the offender or information necessary to issue charges.
	5.	You accepted partial payment.
	6.	This case involves a Stop Payment Check and the check writer has provided information indicating this is a civil matter.
	7.	You provided insufficient information about the offender and/or you cannot identify the offender.
	8.	This is a possible forgery. If you wish to pursue criminal charges you will need to file a police report with the law enforcement agency which patrols your jurisdiction.
	9.	This is a post-dated payday loan check, not subject to criminal prosecution.
	10.	Other:
assi		ou may proceed with any civil action as you deem necessary. Thank you for your nee. We are sorry we could not be of more assistance in this matter.
		Bad Check Specialist



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

#### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

August 29, 2003

John Owner Your Company, Inc 123 Main Hillsboro, MO 63050

RE: Bad Check # 1011, John Q. Public

Dear Mr. Owner;

We have been advised that payment has been tendered directly to you regarding bad check #1011, written by John Q. Public. Payment was made to you after the check was submitted to this office for prosecution. As a result, Prosecuting Attorney fees are owed, as provided for in 570.120.5 of the Missouri Revised Statutes. Please remit payment by cashier's check or money order of \$xx\$ to this office. Payment may be mailed to:

Jefferson County Prosecuting Attorney Bad Check Unit PO Box 100 Hillsboro, MO 63050

Also, please be aware that by not advising us that the check was paid directly to you, criminal charges may have been filed or were filed against the check writer. Criminal charges may lead to the issuance of an arrest warrant. If the check writer was arrested on a warrant which should not have been issued, the consequences for your business could be severe. You subject yourself to a civil suit against you for malicious prosecution. The cost of such a lawsuit would surely be greater than most checks handled by this office. Please notify us immediately if you or one of your employees accepts payment for a check after it has been submitted to this office for prosecution. Thank you for your cooperation.

Very truly yours,

## JACKSON COUNTY PROSECUTING ATTORNEY

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

#### BAD CHECK/BANKRUPTCY

08/31/03

John Owner
Your Company, Inc.
123 Main
Kansas City, MO 64106

Re: Bad Check Case and Bankruptcy

Enclosed is a notice of a bankruptcy case filed by the check writer of the check(s) you referred to our office for collection.

In light of the bankruptcy proceedings, our office cannot collect from the check writer and will not file criminal charges. Therefore, we are returning the check(s) to you.

If you wish to pursue collection of the debt represented by the check(s), please notify the bankruptcy court that you are the creditor for this debt and that any payments made toward the debt should come directly to you.

Sincerely,	
Bad Check Unit	
Enclosure(s)	

## JACKSON COUNTY PROSECUTING ATTORNEY

200 South Main Street, Independence, MO 64050 Bad Check Unit: 816-881-4640

#### BAD CHECK/DEATH CERTIFICATE

08/19/03

John Owner Your Company, Inc. 123 Main Kansas City, MO 64106

RE: \$50 Check to Your Company, Inc; Case #111184 - John Q. Public

Dear Sir:

Thank you for referring the above check(s) to this office.

Please find enclosed a copy of the Death Certificate received in this office from the family of the above referred. This will conclude any and all attempts of collection by this office. Therefore we are returning the check(s) to you.

If you have any further questions regarding the above matter, please feel free to contact me at the phone number listed above.

Sincerely,

Bad Check Unit

## ATTACHMENT M

# Motion to Compel Defendant to Submit to Fingerprinting

## IN THE CIRCUIT COURT OF ABC COUNTY, MISSOURI

STATE OF MISSOURI )				
vs )	CASE NO:			
JOHN Q. PUBLIC ) a/k/a JOHN QUINTON PUBLIC )				
STATE'S MOTION TO COMPEL DEFENDANT TO SUBMIT TO FINGERPRINTING PURSUANT TO SECTION 43.503.6, RSMo.				
COMES NOW, the Prosecuting Attorney	of the County of ABC, State of Missouri, and states:			
Defendant stands charged with an offense or offenses required by Section 43.503, RSMo, to be				
reported to the Central Missouri Records Rep	pository. The State requests this court to insure that			
defendant is fingerprinted in this case. The	State would respectfully request the Court to order			
Defendant to submit to fingerprinting and to	provide all information necessary to fully complete			
the identification and photograph portions of the standard fingerprint card.				
	Respectfully submitted,			
	Prosecuting Attorney of the County of ABC, State of Missouri, by			

## ATTACHMENT N

## Letter & Motion to Revoke Probation



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

#### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

September 30, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

Re: Bad Checks/Probation CR

Dear Mr. Public:

A review of your file has brought to my attention that we have received new checks in the Bad Check Unit after your plea of guilty and placement on probation. This office must always be concerned with the expiration of the statute of limitations for the filing of criminal charges on any check submitted to us for prosecution. In order to stop the statute of limitations from running our on any given check, charges must be filed or, as with your previous checks, the checks must be included in restitution ordered as part of your probation. The checks received in this office after your placement on probation are **not** covered on your probation agreement. We cannot merely add the checks to the end of your probation, because the statute of limitations will continue to run, possibly precluding us from filing criminal charges on those checks if you fail to pay them.

In order to protect the possible prosecution for these checks, we must demand that the checks be paid within the next 30 days. I have enclosed a printout of the checks not covered under your probation. The Total Defendant Balance at the end of that printout is the amount which must be paid within 30 days. Please call us at (636) 797-5063 or 797-5599 if you desire to pay anything less than the full amount of restitution. Any payment made toward these checks is **in addition to** your monthly restitution payment as ordered on your probation.

I have also enclosed a printout of the balance remaining on your probation for your reference.

Very truly yours,

Collections Mgr.



JEFFERSON COUNTY COURTHOUSE PO BOX 100 HILLSBORO, MO 63050

#### BAD CHECK & DELINQUENT TAX UNITS

BAD CHECK UNIT (636) 797-5599

DELINQUENT TAX UNIT (636) 797-5383

FACSIMILE (636) 797-5065

September 30, 2003

John Q. Public 2323 Main Hillsboro, MO 63050

RE: State of Missouri v. John Q. Public

Dear Sir:

Please find enclosed several documents, including the sentencing memo signed by the Court at the time that you were placed on probation. You will note that a condition of the probation is that you personally appear in the Prosecuting Attorney's Bad Check Unit on a monthly basis until all of the restitution is paid. The memo goes on to inform you that in the event you fail to appear and to pay; your probation is subject to revocation. Unfortunately, we find ourselves in that position.

I have enclosed a Motion to Revoke Probation that I am prepared to file against your noncompliance with the condition of probation imposed by the Court at the time of your sentencing. You have five (5) days to correct this situation by personally appearing in the Prosecuting Attorney's Bad Check Unit and paying your delinquent restitution payments of \$x and your Court Costs of \$x. Your failure to do so will leave me no alternative but to file the enclosed Motion to Revoke your Probation.

You have pleaded guilty to a misdemeanor offense of Passing a Bad Check, a class A misdemeanor which carries a range of punishment a fine up to \$1,000.00, or one year in the county jail, or a combination of both fine and imprisonment.

Our goal is to obtain restitution for the victims of bad check charges. We have no desire to seek revocation of your probation, but without this matter being resolved within the next five (5) days, we will be left no alternative.

If you have any questions, please feel free to contact our Bad Check Unit.

Very truly yours

STATE OF MISSOURI	) ) SS.
COUNTY OF JEFFERSON	)
	HE TWENTY-THIRD JUDICIAL CIRCUIT SBORO, JEFFERSON COUNTY, MISSOURI
STATE OF MISSOURI	)
Plaintiff, Vs	) ) CAUSE NO:
JOHN Q. PUBLIC a/k/a JOHN QUINTON PUBLIC	) ) )
Defendant.	)
MOTION	TO REVOKE PROBATION
misdemeanor, and upon Defendant Sentence and placed Defendant on this Honorable Court to take Judicisupport thereof alleges that Defend appear in the Prosecuting Attorney probation.	uilty to the offense of Passing a Bad Check, a Class A 's plea of guilty the Court Suspended Imposition of 24 months of unsupervised probation. The State prays al Notice of its own file in the above styled case and in ant has failed to either pay restitution as agreed, or to 's Bad Check Unit as Ordered as special conditions of
	Court to Suspend Defendant's Probation, issue a orders as the Honorable Court deems just and proper.
	Respectfully submitted this
	Assistant Prosecuting Attorney MBE:
So Ordered this day of, 20 by:	
Associate Circuit Judge	

Div.		
Δ	PDENIDIX	$\mathcal{C}$

# ATTACHMENT O Drug Court Eligibility Form

## DRUG COURT PROGRAM INITIAL ELIGIBILITY DETERMINATION

ACCUS	ED:	CHARGE(S):	
SSN:	/	NEW FILING	ACTIVE CASE
OOB:		CASE NO	
	QUALIFYING CHARACTERISTICS –	CONSIDERATIONS FOR ICABLE LINES	ELIGIBILITY
	(CHECK APPL	CABLE LINES	
۸,	pplicant is charged with any of the following	offenses:	
^]	Possession or attempt to Possess a Controlle		r disqualifying amounts
	Fraudulent Prescriptions	ed Substance (see reverse to	i disquaiitying amounts
	1		
	Possession of narcotic paraphenalia	C 1	
Tr.I	Non-drug, non-violent crime with indication		4
	he Applicant admits to the police that he/she		arrest
	he Applicant admits to bond investigator that		
	he Applicant tests positive for drug use at the		
_ Th	he Applicant's family, friends, attorney, emp	loyer, etc. State that he/she	s a drug user
		CHARACTERISTICS	
{ANY	LINE CHECKED BELOW DISQUALIFIE	ES APPLICANT FOR DRU	G COURT PROGRAM
Aı	pplicant is not a resident of Boone County, N	/lissouri	
	pplicant is charged with a violent offense, or		the offense
	pplicant is charged with Trafficking drugs in		
	ibstance within 1,000 feet of a school, or Pos		
	stribute, deliver or sale	session of controlled substan	ice with intent to
	pplicant is charged with three or more felony	counts	
	pplicant is charged with three of more relong pplicant is currently under felony probation of		
	pplicant has been found guilty for any degree		zoluntary manglaughter
	pplicant has been found guilty of a misdemen		e e
	pplicant has one or more prior felony convic		a Wassana affansa an
	pplicant has been found guilty of any degree	of Robbery, Felony Assault	a weapons offense, or
	rmed Criminal Action	1 .	
	pplicant has history of assaultive or violent b		
	pplicant has been found guilty of two or mor		1 1
	pplicant has been found guilty of Stalking or	Violation of a Protective Of	rder, or a domestic
	olence misdemeanor assault		
	pplicant has another pending criminal case of		
_ A <sub>l</sub>	pplicant possessed amounts of outside the gu	idelines set forth on reverse	side
El	ligible outside guidelines due to:		
_	N IGIDI E EOD GONGVERS (EVO)	n m torn	DOD GONGEDER / TO
E	ELIGIBLE FOR CONSIDERATION	<del></del>	FOR CONSIDERATION
	{IF ELIGIBLE, ACCEPTANCE IS SU	JBJECT TO ASSESSMENT	Γ RESULTS}

PREPARER'S SIGNATURE DATE	
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#### DISQUALIFYING AMOUNT OF DRUGS POSSESSED

APPLICANTS ARE PRESUMED DISQUALIFIED FROM THE DRUG COURT PROGRAM IF THE DRUGS POSSESSED EXCEED THE FOLLOWING AMOUNTS:

SUBSTANCE	AMOUNT POSSESSED	
MARIJUANA	2 ½ OZ.	
METHAMPHETAMINE	½ GR.	
COCAINE POWDER	2 GR.	
COCAINE BASE	1 GR.	
LSD	5 HITS	
PSILOCYBIN	½ OZ.	
MISCELLANEOUS PILLS: VALIUM, DILAUDID, RITALIN, TALWIN, ECSTASY, PERCODAN 5 TABLETS		

POSSESSORS OF PURE METHAMPHETAMINE (ICE), HEROIN, AND/OR PCP ARE DISQUALIFIED FROM ACCEPTANCE INTO THE PROGRAM.

FIREARMS OR KNIVES USED OR DISPLAYED OR WITHIN THE IMMEDIATE CONTROL OF THE APPLICANT DISQUALIFIES HIM/HER FROM THE DRUG COURT PROGRAM REGARDLESS OF THE AMOUNT OF CONTROLLED SUBSTANCE POSSESSED.

# ATTACHMENT P Mental Health Court Referral Form

#### MENTAL HEALTH COURT REFERRAL

Please Send Referrals to: Please Indicate Referral Source Information: Name: Mental Health Court Coordinator Agency: \_\_\_\_\_ Fax: \_\_\_\_\_ Boone County Circuit Court Phone: 886-4082 Fax: 886-6061 **SECTION A Date of Referral:** To be completed by the referral source (please provide information as known) Defendant Name: \_\_\_\_\_\_\_ SSN: \_\_\_\_\_-\_\_\_\_ \_\_\_\_\_ Gender \_\_\_\_\_ Race: \_\_\_\_\_ Date of Birth: Current Address: Phone: In Custody: Criminal Case #: Arrest Date:  $\square$  No □ Yes Where? Does the defendant have a diagnosed mental illness?  $\square$  No  $\square$  Yes (please provide details) Primary Diagnosis: \_\_\_\_\_\_ Source of Information: \_\_\_\_\_ Is the defendant currently receiving Mental Health Services?  $\square$  No  $\square$  Yes drugs \_\_\_\_\_ Source of Information: alcohol Does the defendant have medicaid?  $\square$  No  $\square$  Yes **SECTION B** To be completed by the Mental Health Coordinator Does this person meet basic eligibility requirements for mental health court? No-Reason(s) Yes – The defendant's first Mental Health Court appearance is scheduled for: Date: \_\_\_\_\_ Time: \_\_\_\_\_ Division: \_\_\_\_\_ The defendant has a hearing scheduled in Division on Additional Comments from Intake: \_\_\_\_\_

## **APPENDIX D**

# MERCHANT EDUCATION PACKETS

APPENDIX D Attachment Q

## JACKSON COUNTY MERCHANT HANDOUTS

APPENDIX D Attachment R

## JEFFERSON COUNTY MERCHANT HANDOUTS

APPENDIX D Attachment S

## ST CHARLES COUNTY MERCHANT HANDBOOK

APPENDIX D Attachment T

## ST LOUIS COUNTY MERCHANT HANDBOOK